

BOARD NOTICE 393 OF 2023



SACPCMP POLICY ON THE RECOGNITION OF NEW SPECIFIED CATEGORIES OF REGISTRATION

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1 Acronyms and Abbreviations

CBE	Council for the Built Environment
CPD	Continuing Professional Development
NQF	National Qualifications Framework
SACPCMP	The South African Council for the Project and Construction Management Professions
SAQA	South African Qualifications Authority

2 Definitions

Community of Expert Practitioner	A group of knowledgeable or appropriately skilled practitioners in a formalised and well-defined profession or occupation.
Built Environment	<i>"... (i) everything humanly created, modified, or constructed, humanly made, arranged, or maintained (ii) to serve human needs, wants, and values (iii) to protect us from, the overall environment, to mediate or change this environment for our comfort and well-being, and (iv) contributing either positively or negatively to the overall quality of environments both built and natural and to human-environment relationships."</i>
Professional designation	Title or status conferred by a professional body in recognition of a person's expertise and/or right to practice in an occupational field.
Progression pathway	Hierarchy of two or more related qualifications and/or professional designations that allow for vertical progression within a profession.
Public Interest	The Black's Law Dictionary defines Public Interest as: The general welfare of the public that warrants recognition and protection. Something in which the public as a whole has a stake in, especially an interest that justifies governmental regulation.

1. Introduction

The SACPCMP is legally mandated to recognise and confer designation(s) to professionals which practice within the management of the construction phase of the infrastructure life cycle (which consists broadly of the conceptualisation and design phase, the construction phase and the operation and decommissioning phase). This policy seeks to provide guidance on the legislative mandate of the SACPCMP to recognize new and emerging specified Categories.

2. Legislative and Policy Framework

The SACPCMP jurisdiction to recognise a specified category designation is informed by the following sections of the SACPCMP Act:

- i. Section 18 (1) (c)
- ii. Section 19 (2) (b)
- iii. Section 21 (2)
- iv. Section 26 (1)

The above sections give the SACPCMP jurisdiction to recognise new specified categories. The role of the CBE is to advise the SACPCMP as contained in Section 4(f) of the CBE Act which empowers the CBE to provide advice and consultation on national policy that could have an impact on the built environment, human resource development in relation to the built environment professions, and the recognition of new professions.

The policy relies on the SAQA *Policy and Criteria for Recognising a Professional Body and Registering a Professional Designation for the Purposes of the National Qualifications Framework Act, Act 67 of 2008 (as amended, March 2018)* which describes the criteria for registering a professional designation with SAQA and the 2015 CBE *Policy Framework on the Recognition of New Professions* have been consulted in developing this policy.

3. Policy Prescripts

3.1. Identification and recognition of specified categories

In order for a new category of registration to be recognised the following must be in place:

- 3.1.1. The Specified Category must conduct its tasks predominantly in the built environment.

3.1.2. The Specified Category must conduct its tasks within the construction, operation and decommissioning phases of the infrastructure life cycle.

3.1.3. The Specified Category must pass the tests for compelling interest as follows:

- i. Is it in the interests of the public for the Specified Category to be recognised or will the health and safety of the public be protected and how?
- ii. Will the Specified Category help promote and maintain a sustainable built environment and natural environment?
- iii. Will the Specified Category also conduct its business in a manner that will help promote health, safety and environmental protection within the built environment?

3.1.4. The Specified Category must show evidence of professionalisation

- i. Is there existence of a professional association with at least fifty (50) members?
- ii. Is there evidence of a process by which the profession canvassed its members on their wish to be regulated?
- iii. Does the Specified Category have a community of expert practitioners?
- iv. Does the Specified Category have domain expertise and discipline specific knowledge?

4. Development of the Professional Designation

The Specified Category must pass the test for readiness to be registered with SAQA as a professional designation and thus the following will be required:

- i. Development of Scope of Services for the category
- ii. Development of a competency framework for the category
- iii. Development, recognition and/or accreditation of underlying qualification/s that leads to the designations.
- iv. Development of entry criteria
- v. Determination of fees for the specified category

5. PAJA Imperatives

To give effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in section 33 of the Constitution of the Republic of South Africa.

5.1. Procedurally Fair Administrative Action

- (1) Administrative action which materially and adversely affects the rights or legitimate expectations of any person must be procedurally fair.
- (2) A fair administrative procedure depends on the circumstances of each case.

In order to give effect to the right to procedurally fair administrative action, an administrator (SACPCMP), must:

- i. give a person adequate notice of the nature and purpose of the proposed administrative action.
- ii. Provide a reasonable opportunity to make representations.
- iii. Provide a clear statement of the administrative action.
- iv. Provide adequate notice of any right of review or internal appeal, where applicable; and
- v. Provide adequate notice of the right to request reasons for the administrative action to give effect to the right to procedurally fair administrative action.

In order to give effect to the right to procedurally fair administrative action, an administrator (SACPCMP) may, in his or her or its discretion, also give a person:

- i. The opportunity for assistance and, in serious or complex cases, legal representation.
- ii. the opportunity to present and dispute information and arguments; and
- iii. the opportunity to appear in person.

If it is reasonable and justifiable in the circumstances, an administrator (SACPCMP) may depart from any of the requirements referred to above. In determining whether a departure is reasonable and justifiable, an administrator (SACPCMP) must consider all relevant factors, including:

- i. the objects of the empowering provision.
- ii. the nature and purpose of, and the need to take, administrative action.
- iii. the likely effect of the administrative action.
- iv. the urgency of taking administrative action or the urgency of the matter; and
- v. the need to promote efficient administration and good governance.

Where an administrator (SACPCMP) is empowered by any empowering provision to follow a procedure which is fair, the administrator may act in accordance with that different procedure.

An administrator (SACPCMP) must convene an internal tribunal to hear a case convened by a person aggrieved and seeking relief for just administrative action. The tribunal shall follow the same procedure as that of a case of against a professional for misconduct.

5.2. Remedies of Administrative Action

The tribunal, in proceedings for review, may grant any order that is just and equitable, including orders directing the administrator (SACPCMP):

- i. to give reasons; or
- ii. to act in the manner the tribunal requires.
- iii. prohibiting the administrator from acting in a particular manner.
- iv. setting aside the administrative action and
- v. remitting the matter for reconsideration by the administrator, with or without directions; or
- vi. in exceptional cases, substituting or varying the administrative action or correcting a defect resulting from the administrative action; or
- vii. directing the administrator or any other party to the proceedings to pay compensation.
- viii. declaring the rights of the parties in respect of any matter to which the administrative action relates.
- ix. granting a temporary interdictor or temporary relief or
- x. as to costs.

6. Version Control

6.1. Maintenance of the process

The current process will be reviewed every five (5) years and will be scheduled. Unscheduled reviews will be triggered by the following:

- i. Legislation changes
- ii. Benchmarking (changes in benchmarks or new benchmarks)
- iii. Changes in technology

6.2. Dissemination

The policy will be made available to SACPCMP stakeholders and the general public on the SACPCMP website after publishing in the Government Gazette. It will be disseminated externally on request.