



OVERVIEW OF SUBMISSIONS ON THE BUILT ENVIRONMENT PROFESSIONS BILL [B53-2008] TO THE PORTFOLIO COMMITTEE ON PUBLIC WORKS

5 August 2008

1. Introduction

The Portfolio Committee on Public Works called for submissions on the Built Environment Professions Bill [B53-2008], between 27 June and 18 July 2008.¹ The Committee received over 50 submissions from a range of interested organisations and individuals (including educational institutions, Professional Councils, companies involved in the construction industry, as well as individuals in the built environment).

The submissions raised a number of views related to the Bill, some opposed some in agreement, and some neutral on many sections contained in the Bill. This presentation will provide an overview of the institutions that made representations to the Committee and give an indication of some of their views.

2. Purpose of the Bill

The existing Council for the Built Environment Act (No. 43 of 2000) provides for:

- The establishment of a juristic person as the Council of the Built Environment.
- The composition, functions, powers, assets, rights, duties and financing of such a Council.
- For matters connected therewith.

The new Built Environment Professions Bill indicates that its purpose is:²

- To establish the South African Council for the Built Environment.
- To provide for the establishment of professional Boards.
- To regulate education, training and registration of professionals within the built environment.
- To provide for disciplinary hearings in respect of unprofessional conduct by registered persons.
- To provide for matters connected therewith.

According to the 2006/07 Annual Report of the CBE provides a summary of the critical issues that need to be considered in relation to all six of the Professional Councils are summarised as follows:³

- Almost all the professionals' registration statistics reveal that there are low numbers of women in the Built Environment.
- Appeals and tribunals are on the increase, which is of concern, as it requires large sums of funding to cater for expert witnesses and committee expenses to finalise these cases.
- The accreditation of institutions of higher learning by the Councils is on the rise.
- The racial and gender composition of the serving Council members remains an area of concern for the CBE.

¹ The advert ran for three weeks in all the major newspapers including the *Mail and Guardian*.

² Built Environment Professions Bill [B53-2008], p. 2.

³ CBE 2007, Council for the Built Environment 2006/07 Annual Report, p. 39.



- Representation of national demographics within the Human Resources complement remains a challenge.

3. An Overview of the Submissions

All the submissions that were made were placed into 6 general categories because either the concerns raised around the Bill were similar, or their overall observations were in alignment. Of the 50 plus submission receive 8 were from universities and education related institutions, these include: Higher Education South Africa; North West University; South African Qualifications Authority (SAQA); the Universities of Cape Town; Johannesburg, Pretoria and Witwatersrand.

The main concerns raised around the Bill by these institutions revolve around

Clause 4 Function of the Council

Clause 6 The Constitution of the Council, notably the number of professional members versus non-professional members. (North West University)

Clause 17 The removal of authority from universities as it grants authority to boards on education and training matters. (Wits University, UCT Faculty of Engineering and the Built Environment, University of Johannesburg – Faculty of Engineering and Built Environment)

Clause 28 Registration of certain persons for education and training purposes (University of Johannesburg – Faculty of Engineering and Built Environment)

Clause 29 Accredited education and training institutions to furnish professional boards with certain particulars (UCT Faculty of Engineering and the Built Environment, University of Johannesburg Department of Construction Management, University of Johannesburg –Faculty of Engineering and Built Environment)

Bill is misaligned with National Qualifications Framework Bill [B33-2008] which intends to repeal the SA Qualifications Framework Act of 1995 referred to in the Bill (Higher Education South Africa).

The submissions made by the professional Councils, which include: CBE Council Members, the Council for the Built Environment (CBE), Engineering Council of South Africa (ECSA), South African Council of Property Valuers Profession (SACPVP), South African Council for the Architectural Profession (SACAP), South African Council for the Landscape Architectural Profession (SACLAP), South African Council for the Project and Construction Management Profession (SACPCMP), South African Council for the Quantity Surveying Profession (SACQSP).

The submissions raised the following concerns:

Definitions: professions that have not been included in the Bill for example Town Planners, Land Surveyor, Environmental Scientist (CBE Council Members). Aeronautical and Electrical Engineers do not fit in the built environment definition, although they too need to be regulated.

Suggests that "candidate and professional" needs to be the same because the person who is registered as such is any of the built environment professionals (South African Council for Property Valuers Profession)

Clause 6: The number of representatives on the Council, of the 19 allowed by the Bill, 6 will represent the existing Councils and the professions they represent (29 000 members that constitute ECSA), Engineering Council of South Africa,

Clause 25 Concerned about the role of the Minister in prescribing qualifications and post academic training and examinations prescribed for professionals to register in terms of the new legislation South African Council for the Landscape Architectural Profession).



Clause 51 Ensure the transitional arrangements are carefully studied to ensure a smooth transition. (CBE Council Members)

Concerns raised by the submissions made by AngloGold Ashanti, Murray and Roberts as well and the Chamber of Mines

These revolve mainly around the issues of Peer Review and accreditation (which it believes the Bill removes).

Are against the Minister of Public Works determining who will practice as engineers.

Fear loss of international accreditation by SA Engineers.

Chamber of Mines do not support cross-subsidisation of the boards argues that there is no guarantee that the funding will be sufficient to support the Council and the Boards.

Some individual submissions were for, neutral or opposed to sections of the Bill. Some individual indicated concerns over the blanket regulation of the built environment profession.

Clause 5 Recognition of Voluntary Associations, supports the Bill, presents on the difficulty on getting horticulturalists registered. (Victor Chetty)

Clause 12 Appointment of Registrar and Staff, the submission is of the opinion that clause 12(2) must be re-written for example because the Registrar will not have the capacity to be secretary to the 6 professional boards and register all the different categories of the various boards (Faried Allie).

Clause 18: Individual submissions that made presentations on the education and training aspects of the Bill, especially related to compulsory registration as requirement to practice as a professional. (Lungelo Buthelezi, Saziso Vikilhale)

Clause 52 Believes that if law of professional councils are repealed – the international accords they entered into will be void. (Lester Ingham)

Indicates that the CBE had no manpower or knowledge to regulate the aerospace engineers. Also argues that as the CBE falls under the Department of Public Works, has no jurisdiction over entities that fall under the Department of Transport. (Lester Ingham).

The submissions presented by voluntary associations and bodies representing built environment professionals were received from approximately 13 organisations. Some of these presentations raised some overall concerns with regard to the process related to the call for submissions and indicated that there was insufficient time to consult properly. (Institute of Engineering Technologists and the Chamber of Engineering Technology). A similar concern was raised by ECSA.

The submissions raise the following concerns:

Clause 5 Suggests that consideration be given to the role of Voluntary Associations, indicates that the bill is silent on how and what Professional Boards have to communicate to voluntary associations for them to exercise their rights. (South African Institute of Civil Engineering)

Clause 6 is of concern (especially the number of professionals allowed to represent professionals on the Council).

Clause 9 Believe that the Council will find it difficult to execute all its functions as stipulated by the Bill if it is to meet twice annually (South African Association of Consulting Engineers)

Clause 15 concerned that the Bill does not take any interest as to the disciplines of the boards that will be established. It further states that section 15(3) is of particular concern as it does not define how it will be determine which body represents the majority of the persons affected. (Institution of Certificated Mechanical and



Electrical Engineers, South Africa) It believes that it is doubtful the majority of the board will be persons technically able to make the necessary objective decisions relating to the boards effective functioning and notes that section 15(5)(b) states that 20% of members of the board will be persons who representing the community and are not professionals registered with that professional board. (Institution of Certificated Mechanical and Electrical Engineers, South Africa).

The submissions by consultants, foundations and other organisations also raised similar issues as the ones above. For example the Construction Industry Development Board also noted the issue of the composition of the Council, but added that a Built Environment Professions Stakeholders' Forum should be established to discuss issues related to the built environment.

Clause 6: Composition of the South African Council of the Built Environment (Centre for Constitutional Rights)

Clause 8(1): Concerned with the Ministers 'unfettered' power to appoint both the chairperson and vice-chairperson, and proposes that the "**Council shall elect chairperson and vice-chairperson, who shall not be a state employee**". (Centre for Constitutional Rights).

Clause 15 Establishment of Professional Boards, Suggests that the existing Boards be retained for a year until adequate provision can be made for the incorporation of these institutions into a new Board. (Tumber Fourie Consulting Engineers).

The scope and activity of the professions must be clearly defined. Proposes that the Department of Public Works undertakes a work study on the advisability of the proposes structure. (United Democratic Movement)

Concerned about the number of professional members in the composition of the Professional Boards. It notes that clause 15(5) does not mention community representatives, state departments or educational institution representatives (Construction Industry Development Board, Centre for Constitutional Rights)

4 . Conclusion

The majority of the submissions whether in support, opposed or neutral to the Bill raised issues around definitions, especially that of the built environment, candidate, professional and specialist.

They were also concerned with the Functioning of the Council (clause 4), the recognition of voluntary associations (clause 5), will they automatically be accepted under the new legislation. Composition of the Council (clause 6), and 15 the establishment of the Professional Boards in the first part of the Bill.

In terms of education and training, the educational institutions were mainly concerned with the Minister's powers to prevent Higher education institutions from presenting programmes, if it is not accredited by a professional board (Clause 17(1)). Clause 25 relates to the role of the Minister in prescribing qualifications for registration. It was noted that these are the duties that the current Councils perform, and that they should continue to do so.

Compulsory registration and peer review, as noted above. International accreditation, especially the signed agreements entered into by certain Councils such as ECSA in terms of the Sydney and Dublin Accords. Concerned that they will need to be re-negotiated if CBE become the South African Council for the Built Environment.



Finally concern about access to the built environment profession and differential registration criteria for students with qualification from Technikons as opposed to those from Universities. Concerns raised about the finances of the new Council, especially, if subscriptions will be enough. Suggest that the Department also subsidise Councils, especially those that are not financially viable. Is there adequate time allowed for the transitional arrangement to implement the new structure. Other submissions maintain that the current structure is adequate, but that weakness in CBE is an issue.



LIST OF SUBMISSIONS

Universities and Education-related Institutions

1. Higher Education South Africa
2. North West University
3. South African Qualifications Authority: (SAQA)
4. UCT Faculty of Engineering and the Built Environment
5. University of Johannesburg Department of Construction Management
6. University of Johannesburg Faculty of Engineering and the Built Environment
7. University of Pretoria
8. University of Witwatersrand, Johannesburg

Professional Councils

1. CBE Council Members
2. Council for the Built Environment
3. Engineering Council of South Africa
4. South African Council of Property Valuers Profession
5. South African Council for the Architectural Profession
6. South African Council for the Landscape Architectural Profession
7. The South African Council for the Project and Construction Management Professions
8. The South African Council for the Quantity Surveying Profession

Business

1. Anglo Gold Ashanti
2. Chamber of Mines South Africa
3. Murray & Roberts

Individuals

1. Andrew Rossouw
2. Bruce Clark
3. Chris McKay
4. Dirk le Roux
5. Dr Philip Lloyd
6. Dr T E Stidworthy
7. E Naude Pr Eng
8. Faried Allie
9. Jean Grové
10. Lester Ingham
11. Lungelo Buthelezi
12. Malcolm Simpson
13. Saziso Vikilahle
14. Victor Chetty



Bodies representing built environment professionals

1. National Society of Black Engineers of South Africa
2. South African Academy of Engineering
3. South African Academy of Engineers
4. South African Federation of Civil Engineering Contractors
5. South African Institution of Civil Engineering – Institution of Civil Engineers
6. Southern African Institute of Steel Construction
7. The Institute of Professional Engineering Technologists and The Chamber of Engineering Technology
8. The Institution of Certificated Mechanical and Electrical Engineers, South Africa
9. The South African Association of Consulting Engineers
10. The South African Institute of Architects
11. The South African Institute of Architectural Technologists
12. The South African Institute of Valuers
13. The South African Institution of Mechanical Engineering

Consultants, Foundations and other organisations

1. Campbell Davies Consulting cc
2. The Centre for Constitutional Rights
3. Construction Industry Development Board (CIDB)
4. Tumber Fourie Consulting Engineers
5. United Democratic Movement