



**SELECT COMMITTEE ON PUBLIC SERVICE  
(NATIONAL COUNCIL OF PROVINCES)  
22 OCTOBER 2008**

**CONCERNS RAISED BY DEPARTMENT OF EDUCATION AND NATIONAL TREASURY**

1. CHE refers to the Council for Higher Education
2. DoE refer to Department of Education
3. HE refers to Higher Education
4. NQF refers to National Qualification Framework
5. PBs refers to Professional Boards
6. QCs refers to Quality Councils
7. SACBE refers to the South African Council for the Built Environment
8. SAQA refers to the South African Qualifications Authority
9. VAs refers to Voluntary Associations

**CONCERNS RAISED**

**DPW'S RESPONSE**

**EDUCATION – Amendments suggested by DOE**

1. Definition of "accredit" – "accredit means recognition or certification of educational programmes by the [council or the relevant professional board in terms of this Act] Quality Councils or professional body in terms of the NQF Act or any other law as meeting the prescribed education and training requirements for registration under this Act."

The definition of "accredit" as proposed by DoE provides for recognition of educational programmes by QC's for purposes of registration in the BE.

The term "accredit" is defined in the Bill to indicate a specific meaning within the context of the Bill. This process of accreditation provides for the professional boards (PBs) to determine whether or not a particular qualification offered by an institution meets the requirements for registration in terms of the Bill, which is a requirement for international recognition. This responsibility is vested in the PBs who has the necessary



	<p>knowledge, skills and expertise to determine which programmes are most suitable for a person to acquire competencies for registration in the built environment.</p> <p>The amendment proposed by DoE is unacceptable as it has the potential of excluding PBs from this process of accreditation. As, if the PBs fail to meet the criteria for recognition as a professional body, in terms of the NQF Bill, it would not be able to accredit programmes to this Bill. Further, as the definition of professional bodies is so broad in the NQF Bill, it allows for the recognition of voluntary associations [VAs] as professional bodies. This proposed clause therefore, in addition, has the potential of allowing organizations, other than PBs, to accredit education programs as meeting the prescribed requirements for registration in terms of the BEP Bill.</p>
<p>2. Definition of "<b>Professional</b>" – "professional means a person who is registered as such in any of the built environment professions <u>according to the requirements of the professional designation registered on the NQF in terms of the NQF Act;</u>" –</p>	<p>As PBs have the necessary knowledge, skills, experience and expertise in their respective professions, the determination of the requirements for registration in a built environment profession is the responsibility of the professional boards, under the executive authority of the Ministry of Public Works.</p> <p>As the PB's will be applying for recognition as a professional body and for registration of their professional designation on the NQF, the application of this provision will result in the intention of the suggested amendment and therefore does not necessitate an amendment to the such provision.</p>
<p>3. Clause 4(1)(d) – amend to read "determine strategic policy <u>subject to the NQF Act, 2008 the HE Act, 2007 and the GENFETQA Act, 2001</u> in accordance with national policy determined by the minister and must make decisions in terms thereof with regard to the professional boards and the built environment professions in respect of matters such as finance, <b>[education, training,]</b> registration, code of conduct, disciplinary procedure, scope of the professions, inter-professional matters and continued maintenance of professional competence"</p>	<p>Clause 4(1)(d) in the Bill provides for the SACBE to determine strategic policy for the BE in accordance with the national policy determined by the Minister.</p> <p>The national policy of the Minister will provide direction to ensure that the built environment contributes to the government's overall strategic objectives e.g. poverty alleviation, job creation, transformation, skills enhancement, rural development, etc.</p>



	<p>Decisions will thereafter be made by SACBE on various issues, such as finance, education, training, etc in accordance with the SACBE's policy for the BE, e.g.</p> <p>The SACBE will therefore not be making policy on education and training as eluded to in the letter from the Department of Education, dated 22 August 2008.</p>
<p>4. Clause 4(1)(e) – delete – it is alleged that the function of SACBE to assist and advise SAQA is inconsistent with the NQF Bill.</p>	<p>This clause is not inconsistent with the NQF Bill as it allows for the SACBE to assist and advise SAQA <u>as required in terms of the NQF Bill</u>, e.g. its clause 14(1)(i) [of the NQF Bill] the SAQA is required to develop and implement policy and criteria for recognizing a professional body and registering professional designation for the purposes of the NQF Act, after consultation with statutory and non-statutory bodies.</p> <p>The inclusion of 4(1)(e) is also necessary for the following reasons:</p> <ul style="list-style-type: none"><li>• The NQF Bill establishes the SAQA which determines the NQF;</li><li>• QCs are established by their individual legislation and are recognised as QCs by the NQF Bill, to perform quality assurance duties of educational programmes, offered by institutions established by their act,</li><li>• Professional bodies must register their professional designation with SAQA on the NQF.</li></ul>
<p>5. Clause 4(1)(f) – amend to read – “subject to the <u>NQF Act, 2008</u>, HE Act, 1997, SDA, 1998, the FETC Act, 2006, <b>[control and exercise authority]</b> and the <u>GENFETQA Act assist and support SAQA and the QCs contemplated in the NQF Act, 2008</u> in respect of all matters affecting the education and training of persons in the built environment”</p>	<p>In terms of clause 4(1)(f) SACBE is granted authority in terms of the BEP Bill to control and exercise authority over training and education in the built environment, subject to the provisions of the Higher Education Act, the Skills Development Act and the Further Education and Training Colleges Act. These Acts provide for the establishment of relevant educational institutions, which determine their own educational</p>



	<p>programmes. The control and authority exercised by the SACBE is in recognition of the educational programmes offered by such institutions as satisfying the educational requirements for registration in the BE.</p> <p>This clause does not deal with quality assurance of the programmes offered by the institutions. Such quality assurance is done in terms of the NQF Bill. This clause however provides for the determination by SACBE of whether or not an educational programme offered by the institution satisfies the educational requirements for registration in the BE.</p> <p>The suggested amendment is not in line with the intention of the clause.</p>
<p>6. Clause 4(1)(q) – amend to read – “promote [<b>co-ordination</b>] <u>co-operation</u> between [<b>CHE established in terms of section 4 of the HE Act, 1997</b>] <u>the QCs contemplated in the NQF Act, 2008</u>, and the professional boards in relation to the accreditation of educational institutions.</p>	<p>The SACBE has various professional boards reporting to it. The SACBE is an overarching body and provides, <i>inter alia</i>, an administrative and communicative function for the professional boards. The SACBE will therefore co-ordinate the activities of the various professional boards and the CHE with regard to accreditation.</p>
<p>7. Clause 5(1) – insert new subclause providing for the SACBE to ensure that all PBs that meet the requirements for SAQA its NQF Act are registered its that Act</p>	<p>Incorrect reference to clause 5. Clause 5 addresses Voluntary Associations. Notwithstanding, this function is already provided for in 4(1)(p), which provides that “the council must in consultation with PBs, obtain recognition for PBs as professional bodies in terms of the NQF Act;”</p>
<p>8. Clause 16(1)(b) – amend to read – “<u>support, assist, advise and make recommendations to the QCs as contemplated in the NQF Act, 2008 and council on all matters affecting the education and training of persons in, and the manner of the exercise of the practices pursued in connection with, any profession falling within the ambit of the professional boards;</u>”</p>	<p>PB's are established under the SACBE and therefore reports to SACBE on various issues, in particular on matters affecting the specific profession of each professional board.</p> <p>Clause 16(1) details the functions of the PBs in relation to the SACBE, under which it operates.</p> <p>Clause 16(1)(d) in particular creates the obligation on the PB's</p>



	<p>to advise and make recommendations to the SACBE on all matters affecting the education and training of persons in, and the manner of the exercise of the practices pursued in connection with, any profession falling within the ambit of the professional boards.</p> <p>Clause 16(1)(d) does not seek to deal with the interaction between the PBs and SAQA but seeks to pronounce on the obligations of the PBs towards the SACBE.</p> <p>The proposed amendment is therefore inconsistent with the intention of such clause.</p>
<p>9. Clause 16(1)(d) – amend to read – “make recommendations to <u>SAQA, the QCs contemplated in the NQF Act, 2008</u> and the council on any matter falling within the scope of this Act as it relates to any profession falling within the ambit of the professional board in order to support the universal norms and values of such professions, with greater emphasis on professional practice, democracy, transparency, equity, accessibility, social responsibility and community involvement;”</p>	<p>PB’s are established under the SACBE and therefore reports to SACBE on various issues, in particular on matters affecting the specific profession of each professional board.</p> <p>Clause 16(1) details the functions of the PBs in relation to the SACBE, under which it operates.</p> <p>This clause creates the obligation for the PB’s to make recommendations to SACBE on matters falling within the ambit of the PB.</p> <p>Clause 16(1)(d) does not seek to deal with the interaction between the PBs and SAQA but seeks to pronounce on the obligations of the PBs towards the SACBE.</p> <p>The proposed amendment is therefore inconsistent with the intention of such clause.</p>
<p>10. Clause 16(2)(a) – amend to read – “if delegated in terms of the NQF Act, 2008 to <u>perform specific functions</u> conduct [accreditation] visits to any educational or training institution that has a department, school or facility of a profession falling under the ambit of a professional board;”</p>	<p>Clause 16(2) details the powers of the PBs.</p> <p>Clause 16(2)(a) empowers the PB’s to conduct accreditation visits to educational and training institutions.</p> <p>These accreditation visits are conducted, in terms of clause</p>



	<p>17(2), at the request as such institutions wishing to offer educational programmes having as its object to qualify persons for practicing in the built environment.</p> <p>The accreditation done by the PB's in terms of this Act is to recognize specific programmes which are being offered by educational institutions as meeting the requirements for registration in the built environment.</p> <p>The proposed amendment is unacceptable as it removes the power of the professional boards to determine the standards of requirements for registration in the built environment.</p> <p>The power of the PB's in terms of this provision is to only determine, at the request of an educational institution, whether the programmes they offer satisfy the educational requirements for registration in the built environment. The PB's do not conduct accreditation visits with the purpose, nor does the Bill empower the PBs, to veto any educational programmes offered by the educational institutions.</p>
<p>11. Clause 16(2)(b) – amend to read – “subject to the NQF Act, 2008, advise, <u>support</u> and assist the SAQA <u>and the QCs contemplated in the NQF Act, 2008</u> as is required under that Act</p>	<p>This clause provides for PBs to assist and advise SAQA <u>as required in terms of the NQF Bill</u>, e.g. its clause 14(1)(i) [of the NQF Bill] the SAQA is required to develop and implement policy and criteria for recognizing a professional body and registering professional designation for the purposes of the NQF Bill, after consultation with statutory and non-statutory bodies.</p> <p>The suggested amendment is unnecessary, as in terms of clause 4(1)(p) SACBE is obliged to obtain recognition of the PBs as professional bodies, and the PBs will therefore advise, support and assist the QCs in terms of the NQF Bill.</p>
<p>12. Clause 16(2) (c) and (d) – omit. No explanation give for the omission</p>	<p>The accreditation done by the PB's in terms of clause 16(2)(c) is to recognize specific programmes offered by educational institutions as meeting the requirements for registration in a</p>



	<p>BEP.</p> <p>The Higher Education Act, the Skills Development Act and the Further Education and Training Colleges Act, 2006 provide for the establishment of relevant educational institutions, which determine their own educational programmes. In terms of clause 16(2)(c), subject to the provisions of the aforesaid Acts, PBs are granted authority in terms of the BEP Bill to grant, refuse and withdraw accreditation of educational programmes. The accreditation process conducted by the PBs is to determine whether an educational programme offered by an educational institution satisfies the educational requirements for registration in a BEP.</p> <p>With regard to clause 16(2)(d), this clause requires for BPs to consult with CHE to ensure quality assurance of educational programmes having as its object to qualify a person for registration a BEP.</p> <p>The suggested deletions are therefore unacceptable.</p>
<p>13. Clause 16(2) (e) – amend to read – “[consult with] <u>support and assist</u> the SAQA <u>and the QCs contemplated in the NQF Act, 2008</u> established under the NQF Act, 2008 to determine competency standards for the purpose of [registration in the profession] <u>registering the professional designation applicable to the building environment.</u>”</p>	<p>This clause deals specifically with the determination of competency standards for registration in a BEP. The competency standard of an applicant wanting to register in a BEP is determined by the professional. A persons competence to practice in a BEP is determined during the examination/evaluation conducted when a person applies for registration in the profession, after he/she has obtained his/her educational qualification and has completed his/her experiential training.</p> <p>This reference only to SAQA in this clause is correct as it is the responsibility of SAQA to determine policies relevant to the NQF. The role of QCs is to implement the NQF.</p>
<p>14. Clause 16(2)(h)- amend to read” <u>in respect of professional designation as</u></p>	<p>The appointment of examiners and moderators and the</p>



<p>registered on the NQF relevant to the <u>building environment</u> appoint examiners and moderators, conduct examinations or evaluations, grant certificates and charge fees in respect of such examinations, evaluations or certificates as may be prescribed"</p>	<p>examinations or evaluations mentioned in this clause will be conducted outside the formal educational environment. These examinations will be conducted by the PBs solely to examine the candidate's competence to practice in a particular profession for which he/she is applying for registration.</p> <p>Although an amendment to the clause, specifying that the examinations or evaluations are for registration purpose, may result in a better understanding of the intention of the clause, such detail will be addressed in the rule/regulations and therefore not necessitating an amendment at this stage.</p>
<p>15. Clause 16(2)(i)- amend to read " consider any matter affecting any [profession] <u>professional designation or registration</u> falling within the ambit of the professional board and may make representations <u>to the QC's contemplated to the NQF Act,2008</u> [or take action] in connection therewith as the professional board deems advisable."</p>	<p>The PBs will be performing specific functions relating to professions within their occupational fields. This clause merely affirms the PB's power to deal with all matters affecting their specific professions.</p> <p>The PBs do not necessarily have to interact with the QCs in all cases where they discharge their functions.</p> <p>This clause is intended to give the PBs general powers to consider any matter affecting any profession falling within the ambit of the PBs and make recommendation and take action in connection therewith as the PB deems advisable.</p> <p>The amendment is unnecessary as it is not intended to address only the powers of PBs in respect of quality assurance and professional designation; this has been dealt with in other provisions of the Bill.</p>
<p>16. Clause 16 (2) (j) – omit. No explanation given for suggested omission.</p>	<p>If a person has obtained a foreign qualification, such person may request the PB's to recognize such qualification for purposes of registration.</p> <p>This clause empowers the PBs to recognize such qualification if it is comparable to any prescribed qualification.</p>





<p>17. Clause 16(2)(k) – amend to read “register a person recognized in terms of paragraph (i) upon compliance with such additional requirements as may be <b>[determined by the professional board whereupon such person must, to the extent to which the qualification has been so recognized, be regarded to hold such prescribed qualification]</b> applicable to a professional designation as is registered on the NQF; and”</p>	<p>The additional requirements referred to herein are in respect of the requirements for registration in the BE. The determination of requirements for registration in the BE is the responsibility of the PBs.</p> <p>As the PB's will be applying for recognition as a professional body and for registration of professional designation on the NQF, the application of this provision will result in the intention of the suggested amendment and therefore does not necessitate an amendment to the such provision.</p>
<p>18. Clause 16(2)(l) – amend to read as follows “<u>subject to the NQF Act 2008, the Higher Education Act, 1997 and the General and Further Quality Assurance Act, 2001 and the Skills Development Act, 1998</u>, perform such other function as may be prescribed and, generally, do all such other things as the professional board deems necessary or expedient in order to achieve the objects of this Act in relation to the built environment profession falling within the ambit of the professional board”.</p>	<p>The other clauses under 16(2) grant the PB specific powers and are thus limiting in nature.</p> <p>Clause 16(2)(l) grants general powers to the PBs, <u>but limited</u> only to that which is necessary or expedient in order to achieve the object of the Act in relation to the BE profession falling within the ambit of the PB.</p> <p>This provision is necessary to ensure the effective functioning of the PB.</p> <p>If the clause is specific and the PB needs to do something not so specify it would be acting without the necessary powers. In terms of this clause whatever is done by the PB will have to advance the object of the Act within the ambit of the PB.</p> <p>The suggested amendment is unnecessary as this clause grants general powers to the PB to ensure its effective functioning.</p> <p>The clauses addressing the power of the PB iro educational and training matters have already been made subject to the relevant educational laws. See clause 16(2)(b), (c), (d) and (e).</p>
<p>19. Clause 17 – omit. No explanation given for the omission</p>	<p>Clause 17 details the powers of the PBs to accredit education</p>



	<p>programmes offered by educational and training institutions <u>having as its object</u> to qualify a person for the practicing of any built environment profession.</p> <p>These accreditations are conducted, in terms of clause 17(2), at the request of such institutions wishing to offer educational programmes having as its object to qualify persons for practicing in the built environment.</p> <p>The accreditation done by the PB's in terms of this Act is to recognize specific programmes which are being offered by educational institutions as meeting the requirements for registration in the built environment.</p> <p>The proposed deletion is unacceptable as it removes the power of the professional boards to determine the standards of requirements for registration in the built environment, which power is necessary for international recognition.</p> <p>The power of the PB's in terms of this provision is to only determine, at the request of an educational institution, whether the programmes they offer satisfy the educational requirements for registration in the built environment. The PB's do not conduct accreditation visits with the purpose, nor does the Bill empower the PBs, to veto any educational programmes offered by the educational institutions.</p>
<p>20. Clause 18 (4) – "if the registrar is not satisfied that the applicant satisfies the prescribed requirements [or that the qualification] <u>for the professional designation</u> or other documents submitted in support of the application satisfy the requirements of this Act, the registrar must refuse to register the applicant, but must, if so required by the applicant, submitted the application to the PB in question for a decision".</p>	<p>The determination of the requirements for registration in the built environment is the responsibility of the PBs.</p> <p>As the PB's will be applying for recognition as a professional body and for registration of their professional designation on the NQF, the application of this provision will result in the intention of the suggested amendment and therefore does not necessitate an amendment to the such provision.</p>
<p>21. Clause 25 – Heading - replace "prescribe" with "identified"</p>	<p>See note below under item 22</p>