



**MINISTRY: EDUCATION
REPUBLIC OF SOUTH AFRICA**

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Mr J Doidge, MP
Minister of Public Works
Private Bag X890
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Dear Colleague

I attach for your information proposed amendments to the Built Environment Professions Bill, which are intended to address the concerns of the Department of Education in regard to this legislation.

I trust these will be considered by you in deciding on a way forward in this regard.

Yours sincerely

A handwritten signature in black ink that reads 'Naledi Pandor'.

GNM Pandor, MP
Minister of Education
Date: 11-10-2008

PROPOSED AMENDMENTS BY THE DEPARTMENT OF EDUCATION TO THE BUILT ENVIRONMENT PROFESSIONS BILL B 53B- 2008

The following proposals are made following the letter of the Minister of Education to the Minister of Public Works regarding the draft Built Environment Professions Bill. The proposals are primarily designed to align the Built Environment Professions Bill with the National Qualifications Framework Bill and the Ministers responsibility for education and training system of the country. Given the extensive nature of the proposals, individual motivations have not been advanced but will be made during a proposed meeting between the Department of Education and the Department of Public Works on 25 September 2008.

There are other matters that have been raised by existing statutory bodies such as ECSA but these matters have not been factored into the proposed amendments. In addition, it is observed that the Bill proposes that the Council appoints a Registrar (section 12) who becomes "secretary to the Council", however, it appears silent on the appointment of the Registrar as CEO and the Accounting Officer. In addition, section 13 (9) grants the Registrar and Council sweeping powers which maybe unprecedented.

CLAUSE 1 DEFINITIONS

1. The definition for **accredit** may need to be amended as it is a term used for quality assurance of programmes or institutions by quality assurance bodies. In this regard, on page 3, in line 50, after "by the" to omit "council or the relevant professional board in terms of this" and to insert "Quality Councils or education institution in terms of the National Qualification Framework". "**accredit**" means recognition or certification of educational programmes by ~~the council or the relevant professional board in terms of this~~ Quality Councils or professional body in terms of the National Qualification Framework Act or any other law as meeting the prescribed education and training requirements for registration under this Act;
2. On page 4, in line 20, after "professions" to insert "according to the requirements of the professional designation registered on the National Qualifications Framework in terms of the National Qualifications Framework Act". "**professional**" means a person who is registered as such in any of the built environment professions according to the requirements of the professional designation registered on the National Qualifications Framework in terms of the National Qualifications Framework Act;

CLAUSE 4

3. **4 (1) (d)** On page 5, in line 29, after "determine strategic policy" to insert "subject to the National Qualifications Framework Act of 2008, the Higher

Education Act, 1997, (Act 101 of 1997 and the General and Further Quality Assurance Framework Act, 2001 (Act 38 of 2001)” and omit education and training after finance

determine strategic policy subject to the National Qualifications Framework Act of 2008, the Higher Education Act, 1997, (Act 101 of 1997 and the General and Further Quality Assurance Framework Act, 2001 (Act 38 of 2001), 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, ~~education, training,~~ registration, code of conduct, disciplinary procedure, scope of the professions, inter-professional matters and continued maintenance of professional competence;

4 (1) (e) On page 5, line 35. Delete the entire clause. The clause suggests that the Council will become an advisory body to SAQA. This function is inconsistent with the NQF Bill.

4. 4 (1) (f) On page 5, in line 39, to omit “control and exercise authority” and to insert “National Qualifications Framework Act of 2008”, “the General and Further Education Quality Assurance Act, assist and support the Quality Councils contemplated in the National Qualifications Framework Act, 2008”.

subject to the National Qualifications Framework Act of 2008, the Higher Education Act, 1997 (No. 101 of 1997), the Skills Development Act, 1998 (Act No. 97 of 1998), the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006), ~~control and exercise authority~~ and the General and Further Education Quality Assurance Act, assist and support SAQA and the Quality Councils contemplated in the National Qualifications Framework Act, 2008 in respect of all matters affecting the education and training of persons in the built environment;

5. **4(1)(q)** On page 6, in line 25, to omit co-ordination and replace with corporation and omit “Council on Higher Education established in terms of section 4 of the Higher Education Act, 1997 (Act No. 101 of 1997)” and to insert “the Quality Councils contemplated in the National Qualifications Framework Act, 2008”.
- (q) ~~promote co-ordination~~ corporation between the ~~Council on Higher Education established in terms of section 4 of the Higher Education Act, 1997 (Act No. 101 of 1997)~~ the Quality Councils contemplated in the National Qualifications Framework Act, 2008, and the professional boards in relation to the accreditation of educational institutions;

CLAUSE 5

6. On page 6, in line 55, to insert a new sub-clause (1):

“(1) The council must ensure that all the professional boards that meets the requirements for registration with SAQA in terms of the National Qualifications Framework Act, 2008 are registered in terms of that Act.”

CLAUSE 16

7. On page 12, in line 36, before “advise” to insert “support, assist,”.
 - (b) support, assist, advise and make recommendation to the 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 board;
8. On page 12, in line 36, after “to the” to insert “Quality Councils as contemplated in the National Qualifications Framework Act, 2008 and”.
 - (b) support, assist, advise and make recommendation to the Quality Councils as contemplated in the National Qualifications Framework 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 board;
9. On page 12, in line 43, after “recommendations to” to insert “South African Qualifications Authority, the Quality Councils contemplated in the National Qualifications Framework Act, 2008 and “.
 - (d) make recommendations to South African Qualifications Authority, the Quality Councils contemplated in the National Qualifications Framework Act, 2008 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 profession, with greater emphasis on professional practice, democracy, transparency, equity, accessibility, social responsibility and community involvement;
10. On page 12, in line 56, before “conduct” to insert “if delegated in terms of the National Qualifications Framework Act, 2008 to perform specific functions”.
 - (a) if delegated in terms of the National Qualifications Framework Act, 2008 to perform specific functions conduct accreditation visits to any educational or training institution that has a department, school or faculty of a profession falling under the ambit of a professional board;
11. On page 12, in line 56, after “conduct” to omit “accreditation”.
 - (a) if delegated in terms of the National Qualifications Framework Act, 2008 to perform specific functions conduct ~~accreditation~~ visits to any educational or training institution that has a department, school or faculty of a profession falling under the ambit of a professional board;

12. On page 12, in line 59, after "advise" to insert ", support".
 - (b) subject to the National Qualifications Framework Act, 2008, advise support and assist the South African Qualifications Authority as is required under that Act;
13. On page 12, in line 60, after "authority" to insert "and the Quality Councils contemplated in the National Qualifications Framework Act, 2008".
 - (b) subject to the National Qualifications Framework Act, 2008, advise support and assist the South African Qualifications Authority and the Quality Councils contemplated in the National Qualifications Framework Act, 2008 as is required under that Act;
14. On page 13, from line 1, to omit paragraphs (c) and (d).
 - (c) ~~subject to the Higher Education Act, 1997 (Act No. 101 of 1997), the Skills Development Act, 1998 (Act No. 97 of 1998), and the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006), either conditionally or unconditionally grant, refuse or withdraw accreditation with regard to all educational and training institutions and their educational curricula or training programmes with regard to the built environment profession falling within the ambit of the professional board;~~
 - (d) ~~consult with the Council on Higher Education established in terms of the Higher Education Act, 1997 (Act No. 101 of 1997), regarding matters relevant to education and training within the profession;~~
15. On page 13, in line 11, to omit "consult with" and to insert "support and assist" and "acquiring the relevant designation and"
 - (e) ~~consult with~~ support and assist the South African Qualifications Authority established under the National Qualifications Framework Act, 2008, to determine competency standards for the purposes of acquiring the relevant professional designation and registration in the profession;
16. On page 13, in line 11, after "Authority" to insert "and the Quality Councils contemplated in the National Qualifications Framework Act, 2008".
 - (e) ~~consult with~~ support and assist the South African Qualifications Authority and the Quality Councils contemplated in the National Qualifications Framework Act, 2008 established under the National Qualifications Framework Act, 2008, to determine competency standards for the purposes of acquiring the relevant professional designation and registration in the profession;
17. On page 13, in line 13, to omit "registration in the profession" and to insert "registering the professional designation applicable to the building environment".

- (e) ~~consult with~~ support and assist the South African Qualifications Authority and the Quality Councils contemplated in the National Qualifications Framework Act, 2008 established under the National Qualifications Framework Act, 2008, to determine competency standards for the purposes of ~~registration in the profession~~ registering the professional designation applicable to the building environment;
18. On page 13, in line 20, before "appoint" to insert "in respect of professional designation as registered on the National Qualifications Framework relevant to the building environment".
- (h) in respect of professional designation as registered on the National Qualifications Framework relevant to the building environment 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;
19. On page 13, in line 23, to omit "profession" and to insert "professional designation or registration".
- (i) consider any matter affecting any ~~profession~~ professional designation or registration falling within the ambit of the professional board and may make representations or may take such action in connection therewith as the professional board deems advisable;
20. On page 13, in line 24, to omit "or may take such action" and to insert "and the Quality Councils contemplated in the National Qualifications Framework Act, 2008".
- (i) consider any matter affecting any ~~profession~~ professional designation or registration falling within the ambit of the professional board and may make representations ~~or may take such action~~ and the Quality Councils contemplated in the National Qualifications Framework Act, 2008 in connection therewith as the professional board deems advisable;
21. On page 13, from line 26, to omit paragraph (j).
- (j) ~~upon application by any person recognise any qualification held by him or her, whether such qualification was obtained in the Republic or elsewhere, as being equal, either wholly or in part, to any prescribed qualification;~~
22. On page 13, in line 30, to omit "determined by the professional board, whereupon such person must, to the extent to which the qualification has been so recognised, be regarded to hold such prescribed qualification" and to insert "applicable to a professional designation as is registered on the National Qualifications Framework".
- (k) register a person recognised in terms of paragraph (i) upon compliance with such additional requirements as may be determined by the professional board, ~~whereupon such person must, to the extent to which the qualification has been~~

~~so recognised, be regarded to hold such prescribed qualification~~ applicable to a professional designation as is registered on the National Qualifications Framework; and

23. On page 13, in line 33, before “perform” to insert “subject to the National Qualifications Framework Act, 2008, the Higher Education Act, 1997, (Act 101 of 1997 and the General and Further Quality Assurance Framework Act, 2001 (Act 38 of 2001) and the Skills Development Act, 1998 (Act No. 97 of 1998)”.
- (l) subject to the National Qualifications Framework Act, 2008, the Higher Education Act, 1997, (Act 101 of 1997 and the General and Further Quality Assurance Framework Act, 2001 (Act 38 of 2001) and the Skills Development Act, 1998 (Act No. 97 of 1998) **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.**

CLAUSE 17

24. On page 13, from line 43, to omit Clause 17.

~~17.(1) Subject to the National Qualifications Framework Act, 2008, the Higher Education Act, 1997 (Act No. 101 of 1997), the Skills Development Act, 1998 (Act No. 97 of 1998), and the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006), no educational institution or training facility may offer or provide any education or training having as its object to qualify any person for the practising of any built environment profession to which the provisions of this Act apply, unless such education and training has been accredited by the professional board in question.~~

~~(2) Any person, educational institution or training facility wishing to offer education or training contemplated in subsection (1) must, before offering or providing such education or training, apply in writing to the professional board in question for the accreditation of such education or training, and must-~~

~~(a) furnish such particulars regarding the education or training as the professional board in question may require; and~~

~~(b) pay the prescribed accreditation fees and annual fees to remain accredited.~~

~~(3) The professional board concerned may grant or refuse any application lodged in terms of subsection (2) and, having granted such application, may impose such conditions and requirements as it may deem necessary subject to which the education or training in question may be provided at such educational institution or training facility.~~

~~(4) Any person who contravenes or fails to comply with any provision of this section is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 12 months or both a fine and such imprisonment.~~

CLAUSE 18

25. On page 14, in line 18, to omit "or that the qualification" and to insert "for the professional designation".

(4) If the registrar is not satisfied that the applicant satisfies the prescribed requirements ~~or that the qualification~~ for the professional designation 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, submit the application to the professional board in question for a decision.

CLAUSE 25

26. On page 17, in line 14, to omit "prescribed" and to insert "identified".

Qualification ~~prescribed~~ identified for registration

27. On page 17, in line 16, to omit "prescribe" and to insert "identify"; line 17 omit "accredited" and insert "recognised"

25. The Minister may in consultation with the Minister responsible for education and, after consultation with the council, ~~prescribe~~ identify the qualifications obtained

~~from~~ ~~as~~ ~~by~~ ~~virtue~~ ~~of~~ ~~examinations~~ ~~conducted~~ ~~by~~ ~~an~~ ~~accredited~~ ~~recognised~~ educational or training institution or examining authority in the Republic, which, when held singly or conjointly with any other qualification, entitle the holder thereof to registration in a registration category in terms of this Act is he or she has, before or in connection with or after the acquisition of the qualification in question, complied with such conditions or such requirements as may be prescribed.

28. On page 17, in line 19, after "to registration" to insert "of the professional designation registered on the National Qualifications Framework,".

25. The Minister may in consultation with the Minister responsible for education and, after consultation with the council, ~~prescribe~~ identify the qualifications obtained from a recognised ~~by virtue of examinations conducted by an accredited~~ educational or training institution or examining authority in the Republic, which, when held singly or conjointly with any other qualification, entitle the holder thereof to registration of the professional designation registered on the National Qualifications Framework in a registration category in terms of this Act is he or she has, before or in connection with or after the acquisition of the qualification in question, complied with such conditions or such requirements as may be prescribed.

29. On page 17, in line 21, to omit "as may be prescribed".

25. The Minister may in consultation with the Minister responsible for education and, after consultation with the council, ~~prescribe~~ identify the qualifications obtained from recognised ~~by virtue of examinations conducted by an accredited~~ educational institution or examining authority in the Republic, which, when held singly or conjointly with any other qualification, entitle the holder thereof to registration of the professional designation registered on the National Qualifications Framework in a registration category in terms of this Act is he or she has, before or in connection with or after the acquisition of the qualification in question, complied with such conditions or such requirements ~~as may be prescribed~~.

CLAUSE 26

28. On page 17, from line 23, to omit sub-clause (1).

~~26. (1) (a) — The Minister may, after consultation with the council, by regulation provide that any person who holds a qualification contemplated in paragraph (b) may be registered by the relevant professional board in terms of such a regulation in the applicable prescribed registration category.~~

~~— (b) — The council may for the purposes of registration contemplated in paragraph (a) accept qualifications that indicated a satisfactory standard of professional education and training.~~