



MINISTER  
EDUCATION  
REPUBLIC OF SOUTH AFRICA

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Dear Colleague

**The Built Environment Professions Bill (B53-2008)**

During April 2008, my Department received from the Department of Public Works (DPW), a draft policy on a proposed new framework for the regulation of built environment professionals. A series of meetings were subsequently held between our two Departments and the Council for the Built Environment, where various issues were discussed, including the need to consider the National Qualifications Framework Bill (NQF Bill) (Bill 33 of 2008) when finalising the draft policy and subsequent legislation.

You will recall that the NQF Bill is a culmination of a comprehensive review of the implementation of the NQF conducted by the Departments of Labour and Education. The Bill states that the NQF is a comprehensive system determined by the Minister of Education for the classification, registration, publication and articulation of quality assured national qualifications, offered by all educational institutions, skills development providers, and professional designations issued by professional bodies.

In this regard, our officials agreed that it would be prudent to await the enactment of the NQF Bill before introducing any legislative changes to the regulation of built environment professionals. In addition, the DPW would however initiate the drafting of the Built Environment Professions Bill with due regard to the contents of the NQF Bill.

As you are aware, the Built Environment Professions Bill, Bill 53, was introduced in Parliament at the same time as the NQF Bill. Unfortunately, the two Bills are not in concert with regard to the education and training of built environment professionals.

The following are some of the significant challenges we face as a consequence of the misalignment of the Bills.

The phrasing of the various provisions of the Built Environment Professions Bill, regarding the regulation of education and training of professionals within the built environment pose a number of significant challenges. If such regulation is intended to take place within the education and training sector, this would clearly intrude into the functional areas of Education. If, however, such regulation is meant for the workplace training or in non-formal industry programmes leading to designations conferred by a professional body, the clauses would need to be amended accordingly.

In this regard, consideration ought to be given to amending the following clauses:

Clause 4(1)(d) provides that the new proposed South African Council for the Built Environment (the new Council) will determine strategic policy regarding education in terms of public works policy. This clause is confusing as education policy, is determined by the Minister of Education.

Clause 4(1)(e) states that the new Council must "control and exercise authority in respect of all matters affecting education and training of persons in the built environment". This clause is also confusing as it suggests that the new Council would assume functions currently the responsibility of the Minister and Department of Education, statutory educational bodies such as the Umalusi, the Council on Higher Education (CHE) the South African Qualifications Authority (SAQA) and or education institutions. These functions are clearly articulated in the NQF Bill and various Education legislation. In this regard, the conferring of the right 'to control and exercise authority in respect of all matters affecting the education and training of persons in the built environment' would contradict mandates of existing bodies and prescripts in the Higher Education Act.

Clause 4(1)(e) also refers to the Further Education and Training Colleges Act, 2006 (the FETC Act). Please note, that quality assurance in the Further Education and Training sector is conducted in terms of the General and Further Education and Training Quality Assurance Act, 2001 (the GENFETQA Act) and not the "FETC Act".

Clause 16(2)(b) empowers a professional board (the board) to grant, refuse or withdraw accreditation with regard to all education and training institutions. Clause 16(2)(a) provides for visits by the board and to education institutions to conduct the accreditation of programmes. The phrasing of this clause appears not to recognise the fact that quality assurance in education and training is the responsibility of Quality Councils (QCs) in terms of the NQF Bill. In addition, the CHE and Umalusi are the QCs for Higher Education and Further Education and Training respectively. 16 (2) (d) also does not take cognisance of the assignment of standard setting and generation to Quality Councils in terms of the NQF Bill.

These issues would also apply to Clause 16(2)(g), which declares that the board may 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. The ambit of this provision appears to be unlimited, but would be appropriate if it were referring to designations awarded by professional bodies.

The same issues of responsibility for educational policy, particularly quality assurance, are relevant with respect to clauses 17(1), 17(2), 17(3) 17 (5) which propose to regulate the offering of qualifications by education institutions and the quality assurance of such qualifications.

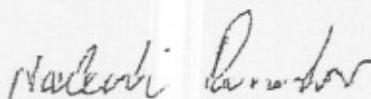
The intention of clause 17(4) is unclear, if it is intended to improve the accountability of education institutions, there are already adequate measures instituted by the Minister of Education which would make this clause unnecessary.

I would also suggest that consideration be given to the unintended consequences and potential implications of clauses 25, 26, 28 (1) and (2), 29 (2) and (3), 46 (2), 47 and 48, in their current wording.

In conclusion, a number of education institutions have made some valuable comments and submissions which could strengthen the Bill. In this regard, I am requesting that our officials meet urgently to discuss these and other matters about the lack of synergy between the NQF Bill, other education legislation and the Built Environment Professions Bill.

I have thus requested that the Director General of Education, Mr Duncan Hindle, Dr M Qhobela, Deputy Director-General Higher Education and other senior staff avail themselves for this urgent and important discussion. Mr Hindle can be contacted on telephone 012 312 5531.

Yours sincerely

  
GNM Pandor, MP  
Minister of Education

Date: 22 - 08 - 2008