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CONTENTS • INHOUD

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>
GENERAL NOTICE		
Rural Development and Land Reform, Department of		
<i>General Notice</i>		
1094 Planning Profession Act (36/2002): Call for comments on the Draft Regulations.....	2	37009

GENERAL NOTICE**NOTICE 1094 OF 2013****DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM****CALL FOR COMMENTS ON THE DRAFT REGULATIONS FOR THE PLANNING PROFESSION ACT, (ACT NO. 36 OF 2002).**

Under Section 30 (1) of the Planning Profession Act, 2002 (Act No. 36 of 2002), I, Gugile Ernest Nkwinti, Minister of Rural Development and Land Reform, hereby invite interested persons, voluntary associations and organizations to comment in writing on the Draft Regulations within a period of 30 days of publication of notice.

Written comments should be received on or before 16:00 on 29 November 2013 by the Minister, of Rural Development and Land Reform, Private Bag X833, PRETORIA, 0001. Submissions should be addressed for the attention Mr. G. Benjamin, Tel (012) 312 9548, email:sacplanregs@ruraldevelopment.gov.za.

SIGNED

MR NKWINTI, G E (MP)**MINISTER: DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM****DATE:14/10/2013**

PLANNING PROFESSION ACT: REGULATIONS

Published under

Gn _____ in GG _____ of _____ 2012

PREAMBLE

To provide for procedures and matters in respect of which regulations are required or permitted in terms of the Planning Profession Act, 36 of 2002 with specific regard to the Reservation of work exclusively for professional and technical planners.

ARRANGEMENTS OF REGULATIONS

TABLE OF CONTENTS

1. Definitions
2. Use of definitions
3. Application of the regulations
4. Reservation of work exclusively for professional and technical planners

1 Definitions

(1) In these Regulations, unless contrary to the context, any expression or word to which a meaning has been assigned in the Planning Professions Act (Act 36 of 2002), shall bear the same meaning and as in these Regulations:

- (a) “**act**” or “**the Act**” means the Planning Profession Act (Act 36 of 2002);
- (b) “**candidate planner**” means a candidate planner referred to and registered in terms of Section 13 of the Act, and include the sub-categories of candidate planner established through these rules;
 - (ii) “candidate planner (student) means a candidate planner registered in terms of Section 13 of the Act and registered as a student in an accredited planning educational programme.

- (iii) "candidate planner" means a candidate planner registered in terms of Section 13 of the Act and that have completed and obtained an accredited planning educational programme qualification at the National Qualifications Framework, level 6 or higher.
- (c) "**Council**" means the South African Council for Planners established in terms of Chapter 2 of the Act and "**SACPLAN**" shall have a similar meaning;
- (d) "**day**" means a calendar day, and when any number of days are prescribed for the doing of any act, it must be calculated by excluding the first day and including the last day, however, if the last day falls on a Sunday or Public Holiday, the number of days must be calculated by excluding the first day and also the Sunday or public holiday.
- (e) "**planners**" or "**planning profession**" means candidate planners, technical planners and professional planners, referred to collectively.
- (f) "**planning profession work**" means work contemplated in Regulation 1, as also contemplated in Rule 19 of the rules.
- (g) "**professional planner**" means a professional planner referred to and registered in terms of Section 13 of the Act.
- (h) "**registrar**" means the Registrar appointed in terms of Section 8(1)(a) of the Act;
- (i) "**registered persons**" means any person who registered in terms in Section 13 of the Act.
- (j) "**technical planner**" means a technical planner referred to and registered in terms of Section 13 of the Act.

2 Use of definitions

- (1) If a word or concept is not defined in these Regulations, the definitions as incorporated in the Act, will apply.
- (2) The definitions as listed in these Regulations and the Act also apply to words and phrases incorporated in the schedules or forms attached hereto or to forms referred to herein or referred and attached to the Rules.

3 Application of the Regulations

These Regulations have been published in terms of Section 30(1) of the Act.

4. Reservation of work exclusively for professional and technical planners

(1) With reference to Section 2(a) and 16(2) of the Act, the following categories of planning profession work shall be reserved exclusively for professional planners:

(a) With reference to Section 2(a)(i) of the Act:

- (i) The preparation or processing of new, revised or consolidated statutory land use schemes or zoning schemes or town planning schemes for a municipal jurisdiction, as provided for in any Act or other statutory instrument controlling such matters and with specific reference but not limited to the provisions of the Spatial Planning and Land Use Management Act, 2012 and any Provincial or Municipal legislation enacted in terms thereof.
- (ii) Preparation, submission and processing of any application for the amendment of or departures from any provision of a statutory land use or zoning or town planning scheme as provided for in any ruling legislation.
- (iii) Preparation, submission and processing of any application for the consent from any decision making authority authorised in context of prevailing legislation to provide special consent or consent usage approval to depart or deviate from or relax any provisions of a statutory land use or zoning or town planning scheme.
- (iv) The preparation, submission and processing of any application for the removal, amendment, suspension or relaxation of any town planning provision contained in title deeds, which require processing in terms of the Removal of Restrictions Act (Act 84 of 1967), or any amendment thereof, inclusive of clauses relating to usage, subdivision or any development parameter of a town planning nature, as contained in any statutory land use, zoning or town planning scheme.
- (v) The assessment, evaluation and where applicable approval or recommending for approval of any of the documents contemplated in (i) to (iv) above and the provision of an expert report and/or evidence and/or recommendations in respect thereof to any person or body or authority.

- (b) With reference to Sections 2(a)(ii) and (iii) of the Act:
- (i) The preparation, submission, processing and certification of layout plans and documents as part of an application in terms of any statutory provision for the establishment of a new development area/township on undeveloped, underdeveloped or vacant land, to take the form of a new township, either in a rural or urban context, aimed at developing residential, industrial, commercial, business, recreational, tourist or related facilities capable of being registered by a Deeds Registry in the context of the Deeds Registries Act of 1937 or superseding legislation;
 - (ii) Preparation, submission and processing of sketch plans and documents and certification thereof as part of an application in terms of any statutory provision for the subdivision and/or consolidation of an erf in a township, an agricultural holding or farm portion so as to render such subdivided or consolidated areas capable of registration in terms of the Deeds Registries Act, 1937 or superseding legislation.
 - (iii) The assessment, evaluation and where applicable approval recommending for approval of any of the documents contemplated in (i) to (ii) above and the provision of an expert report and/or evidence in respect thereof to any person or body or authority.
- (c) With reference to Section 2(a)(iv) of the Act:
- (i) The preparation and processing of plans and documents as part of a process aimed at formulating new or revised spatial planning policy guidelines (spatial development frameworks) for the development and management of areas for any part of or the whole of the area of jurisdiction of a Municipality, group of Municipalities, regions or geographical areas under control of a Provincial or National Government Department to meet the statutory requirements where such policy guidelines as stipulated in the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Spatial Planning and Land Use Management Act, 2012 and any Provincial legislation enacted in terms thereof, or superseding similar legislation.
 - (ii) The assessment of the impact of spatial policies, plans and programs (including spatial development frameworks) on the environment as part of any Strategic Environmental Assessment (SEA) report, as contemplated in, *inter alia*, the National Environmental Management Act, 1998 (Act 107 of 1998) or similar or superseding legislation.
 - (iii) The assessment, evaluation and where applicable approval or recommending for approval of any of the documents contemplated in

(i) to (ii) above and the provision of an expert report and/or evidence in respect thereof to any person or body or authority.

- (d) In general, any work in respect of which any legislation determines that a specific function shall be fulfilled, service rendered or document or plan, be it in printed or electronic format, be prepared only by a professional planner.
- (2) Notwithstanding any provision to the contrary, technical planners shall be permitted to perform any of the planning profession work referred to in sub-rule (1), subject thereto that such work be, where applicable, certified by a professional planner.
- (3) This regulation shall also be published by the Minister as a rule contemplated in Section 30 (2) of the Act. Should this regulation be amended at any time after publication thereof, such amendment shall be deemed to have amended the rule accordingly.
- (4) With reference to Section 16(4) of the Act, it shall be competent for the following registered professionals in terms of other legislation, to perform specified components of the work contemplated in sub-regulation 4(1) (a) and (b), subject to compliance with the provisions of sub-regulation 4(5) and 4(6):
- (a) Professional land surveyors duly registered in terms of Section 20 of the Professional and Technical Surveyors Act, 40 of 1984.
- (b) Practising attorneys registered in terms of Section 15 of the Attorneys Act, 53 of 1979.
- (5) The registered professionals contemplated in sub-regulation 4(4), shall only be permitted to perform the specified component of the work contemplated in sub-regulation 4(1) (a) and (b) upon the issuing of a certificate by the Council in terms of which Council certifies the following:
- (a) That it has received a written application from the professional in accordance with sub-regulation 4(6) and that it has satisfied itself that the said professional is suitably qualified and possesses sufficient experience and skills to enable such a person to diligently and skilfully perform that component of work contemplated in the Certificate of Approval;
- (b) That the professional person is indeed registered as a professional in terms of one or more of the Acts referred to in sub-regulation 4(4) and that such a person is, being a registered professional in terms of the applicable Act, subject to the code of conduct, rules and regulations of the profession to which he or she belongs.
- (6) The certificate contemplated in regulation 4(5) may only be issued in response to a written application by the applicable professional, submitted to council within 2 (two)

years of the date of the coming into operation of these regulations, complying with the following minimum criteria:

- (a) Full description of the qualifications of the professional so applying;
 - (b) Proof of registration of the of the professional so applying together with confirmation of the registration of the professional as provided for in sub-regulation 4(4) above;
 - (c) Full description of the experience, skills and expertise of the relevant component of the work to which the application applies;
 - (d) Motivation together with relevant proof as to why he / she regards himself/herself to possess the necessary skills and expertise to perform the component of work applied for;
 - (e) Written confirmation from the statutory body regulating the applicable profession that:
 - (i) The application is supported, and;
 - (ii) That the component of work in respect of which application is made, falls within the ambit of the code of conduct and rules of that body and that effective disciplinary action can be taken against the professional should he or she fail to comply with the rules and / or code of conduct, for as far as its applies to the rendering of services that fall within the ambit of the component of work.
- (7) Notwithstanding anything to the contrary contained in the act or these regulations, the council shall be entitled to, at any time after the issuing of the certificate and after the relevant professional has been given due notice of the council's intention to revoke the certificate, and to make representations in that regard, and after due consideration by the council of the said representations, revoke the certificate or a component thereof, if council is satisfied that:
- (a) the standard and quality of work rendered by the applicable professional is not of an acceptable standard, or;
 - (b) that the conduct of the applicable professional in any matter relating to the rendering of the component of work, was of such a nature that, had the professional person been a registered person in terms of the act, such code of conduct would have resulted in a breach of the code of conduct, as provided for in the act, and that it would have led to disciplinary action to be instituted against such registered person.