

**QUESTIONS TO SACAP TO BE ADDRESSED
AT THE STAKEHOLDERS MEETING
OF 10 MARCH 2016**



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The South African Institute of Architectural Technologists
Die Suid-Afrikaanse Instituut van Argitekstegnoloë

Building Professionals to Build the Future!

BACKGROUND

The South African Council for the Architectural Profession (SACAP) via e-mails to Voluntary Associations and Registered Professionals and notices on their website (www.sacapsa.com) invited all stakeholders to a Stakeholders Meeting in Johannesburg scheduled for the 10th of March 2016.

The purpose of this meeting is to continue with what SACAP refer to as an extensive consultative public participation review process to the following:

- Professional Development (CPD)
- Identification of Work (IDoW), Recognition of Prior Learning (RPL)
- Professional Fees Guidelines Framework 2015
- Professional Fees Guidelines 2015.

SACAP make the statement that these draft documents were placed on their website between the period July 2014 – January 2016 and circulated to the Voluntary Associations (VA's) for comment.

Further, SACAP requested via e-mail to the VA's and Registered Professionals and via a notice placed on their website that the participants who will be attending the Public Participation meeting on 10 March 2015, submit questions in relation to the draft documents, so that SACAP can prepare a response and address the questions in the meeting.

The purpose of this document is for The South African Institute of Architectural Professionals (SAIAT) to, with background information, provide the panel with questions in connection with the procedures followed and the documents mentioned.

It should be noted that SAIAT formulated these questions not to confront the statutory body SACAP, but rather to get a better understanding why SACAP want to publish these rules and policies and by way of the questions, suggest alternatives to what is proposed.

The questions will be broken down under the following headings:

- General
- Professional Development
- Identification of Work
- Professional Fees / Professional Fees Guideline
- Recognition of Prior learning

GENERAL

Dr. George Panagiotou from the London School of marketing in an article called “Defining, understanding and meeting the needs of stakeholders” writes as follow:

“Meetings .. are held when stakeholders need to be made aware of a new program or give feedback on an issue. Standing committees made up of stakeholders are sometimes created to meet on a regular basis and serve as decision-making bodies or advisory boards to a business or organization”

A summary of the article reads as follow:

” All organisations, no matter how big or small, will need to define, understand and address the requirements of their various stakeholder groups. While it takes a great deal of effort and expertise for organisations to satisfy these requirements, it is essential to their long term success. After all, as Dr. Panagiotou concludes, “an organisation that does not have the ability to “satisfy” its stakeholders defeats the purpose of its existence.”

Questions:

1. It appears that SACAP, when inviting stakeholders in 2014 to apply for being considered as members of committees of SACAP (that is those committees who compiled the documents in questions), did not considered prior experience nor their affiliation to Recognised Voluntary Associations in appointing members of these committees. ***By doing so, did SACAP not exclude stakeholders’ participation and ignore past experience and continuity in the compilation of the documents in question?***
2. Do SACAP as an organisation really satisfy its stakeholders’ by their actions?
3. Listening to the Registered Professionals who are members of VA’s and the constant stream of complaints received regarding the difficulty in communicating with SACAP:

- Does SACAP indeed have the ability to satisfy its stakeholders?
 - Do certain actions, or the lack thereof, defeat the purpose of SACAP's existence, although required by Law?
4. Taken into account that about 450 persons out of the total number professionals registered with SACAP responded to attend this Stakeholders Meeting, do SACAP plan to have any further Stakeholder Meetings in any of the other major centres as requested by stakeholders in other parts of the Republic or do they consider the one in Johannesburg as sufficient?
5. As from 2014 (meeting between SACAP President and Registrar and SAIAT President on 10 July 2014) and on advice from the SACAP Registrar to request such in writing, SAIAT has tried in writing (at least four times) to address a committee of SACAP. This was also mentioned in meetings held with the SACAP Registrar and the President and Vice-President of SAIAT on 15 December 2014. At these meetings promises were given that there will be a VA Forum meeting, first scheduled for September 2014 and then postponed to March 2015, to liaise with the VA's on certain matters of mutual concern. This Forum never happened, neither a meeting scheduled with a SACAP Committee as requested. Individual meetings with the presidents of the VAs were however conducted in November 2015, but as it was time limited and with only a VA per meeting, we believe it was not successful. This action or lack of action of SACAP raises the question:
- ***Do SACAP still value the input of the VAs who have the authority to collectively speak on behalf of its members or is the rumours true that SACAP do not see any value in the participation of VAs, although both the CBE Act as well as all the BEP Council Acts require that the Councils consult with the VAs?***

6. The notice on the SACAP website reads as follow:

“As part of its 4th Terms’ strategic objectives of Transformation of the Architectural Profession, SACAP’ Council has undertaken an extensive consultative public participation review process since 2014 pertaining to the following:

- *Continuing Professional Development (CPD)*
- *Identification of Work (IDoW), Recognition of Prior Learning (RPL),*
- *Professional Fees Guidelines Framework 2015,*
- *Professional Fees Guidelines 2015.*

These draft documents were placed on our website between the period, July 2014 – January 2016 and circulated to the Voluntary Associations (VA’s) for comment.”

- ***Please provide proof of documents that were published for comment and dates of circulation to VAs in 2014 as this VA is only aware of publication of documents in 2015/2016 as well as circulation thereof to the VAs in 2015/2016.***
- ***The Architectural Profession Act does only mentions “Council”. Please explain why since the establishment of SACAP as required by the Act, after the start of a new term, the “new” Council sees it necessary to start all over again and to disregard work done previously.***

PROFESSIONAL DEVELOPMENT

In the proposed Draft **CONDITIONS RELATING TO CONTINUING PROFESSIONAL DEVELOPMENT AND RENEWAL OF REGISTRATION**, the following is published:

“• *Reasons for the revision of the CPD activities.*

1. *SACAP is a statutory Council charged with the responsibility to regulate the Architectural Profession.*
2. *It follows therefore that SACAP must regulate the CPD activities performed on its behalf.*
3. *The Voluntary Associations (VA's) were tasked by previous Councils to undertake the validation, accreditation and presentation of CPD activities without any or little regulation from Council.*
4. *Council resolved to replace the 5-year cycle to meet the CPD requirements with an annual cycle, which will ensure a continuous development and learning experience.”*

Questions:

7. The extract from the draft document above supposedly provide reasons why there was a need to revise the CPD Activities. However, points 1 – 4 are merely statements without supplying any reason at all. Point 3 refer to the fact that VAs were tasked to undertake validation, accreditation and presentation of CPD activities.

It further states that there was little or no regulation from Council. The current CPD Conditions however allow Council to rule on the validation of a CPD activity if an appeal was made to Council or if Council feels that there is a need to do so. Further, in terms of the MOU signed between the VAs and SACAP,

records of attendance as well as quarterly reports must be submitted by the VAs to SACAP.

- **Why do SACAP need then to further regulate especially the validation of CPD activities if the current Conditions provides such a tool?**
- **Should SACAP not apply the current rules just more effectively?**

8. So far as this VA is concerned, we are not aware of any complaint received about the validation of a CPD Category 1 event nor a presenter.

- **Please provide reasons why SACAP wants to take that function away from the VAs.**
- **Were any VAs consulted regarding the implications of current contractual agreements between the VAs and Third Parties that were validated by the VAs?**
- **Why did SACAP not allow SAIAT to address the CPD Committee regarding these issues when the request was made in 2014 and 2015 or addressed this concern made in previous comments to SACAP?**

9. As per the Draft Conditions, VAs will have to apply to SACAP three months in advance for the validation of CPD activities and presenters will have to be accredited by SACAP.

- **Can SACAP guarantee that the capacity and expertise are available to comply with these requirements?**

- **The time period of three months might be too long if urgent matters have to be communicated via CPD validated activities to registered professionals. Will there be special circumstances that will allow for a quicker validation period?**
- **The Draft does not make any mentioning of costs regarding validation of activities and accreditation of presenters. Will there be any costs involved?**
- **If costs are indeed involved, this VA and the attendees of their CPD activities will face an additional financial burden. Activities presented by this VA has no costs towards the validation of activities as it is presented by the VA itself. Extra costs will have to be added to the cost of attending the activity and since 2008 this VA has managed to keep the cost of a Category 1 activity below a R1000 per credit. Will this requirement not increase the costs of CPD activities rather than decrease it?**
- **A possible reason for the validation of activities by SACAP is to ensure that category 1 activities indeed provide a learning experience as per the definition of Category 1 activities. Does the validation of the Stakeholders Meeting on the 10th of March 2016 (currently defined as a Category 3 event) as a Category 1 event satisfy the requirement for Category 1 events?**

10. Questions about the content of the proposed CPD Conditions:

- **The staggered effect of the current 5-year cycle assisted SACAP with the load of the renewal process of RP's. Does SACAP have the capacity to deal with one-year cycle renewals instead of 5-year cycle renewals?**

- **Will the RP have to pay a renewal fee every year, instead of every five years, plus an annual registration fee or will the renewal fee fall away?**

- **Should a RP decide to take some time off and not be practicing for a said period, it would be impossible for the RP to obtain the minimum 1 credit for Cat 2A as per 4.2. The RP could easily maintain the other categories in CPD during such a time but would be unable to qualify for renewal of his registration due to 4.2. Is this Constitutionally correct and a fair and reasonable requirement?**

- **If a financial and time investment was made in acquiring Cat 1 CPD credits it should not simply be limited to a one year cycle. Why can Category 1 credits no longer be accumulated and transferred to the following year cycle?**

- **The Council is a Statutory Body (juristic person) and not a natural person. Why refer to PREVIOUS COUNCILS?**

- **Were there any other proposals considered for CPD (refer here to previous comment about SAIAT's request) and if so, why were they rejected?**

- **Why is there a need to provide for out-sourcing of a SACAP function (6.3) (delegated entity) and who is envisaged as fulfilling this function?**

IDENTIFICATION OF WORK

The Competition Commissioner recently rejected the submission of the IDoW's of all the BEP Councils as submitted by the CBE and published the following reasons:

“In refusing to grant the exemptions, the Commission concluded that the IDOW Rules of each of the aforementioned professional councils in their current form are likely to harm competition in the following ways:

- 1. Restriction of competition between registered and unregistered persons. The Commission found that once the IDOW Rules are implemented, unregistered persons will not be allowed to undertake work or offer services reserved for the persons registered with their respective professional councils. This exclusionary act will exist regardless of the academic qualifications, practical experience and skills acquired by the unregistered persons;*
- 2. Restriction of competition between persons registered in different professional councils within the CBE. The IDOW Rules identify work reserved for persons registered with each member council of the CBE. To the extent that persons registered with other professional councils wish to compete with each other, they will only do so within the parameters of the Memoranda of Understanding to be concluded between those professional councils;*
- 3. Restriction of competition between persons registered with the CBE and persons registered with other professional councils outside the built environment. Upon the implementation of IDOW Rules, persons outside the built environment but competent to undertake work reserved for persons within the CBE will be prohibited from undertaking such work unless they register with respective built environment professional councils.*
- 4. Restriction of competition between persons registered with the CBE but in different registration categories. The IDOW Rules create different categories of registration and then allocate work to those categories. The Commission found that once the IDOW Rules are implemented, persons registered within specified categories of registration will not be allowed to undertake work outside their category of registration even if they are competent to undertake such work.*

The Commission concluded that the restrictions imposed by the IDOW Rules will reduce the number of persons operating in the relevant market. The reduction in the number of persons is likely to increase the selling price and reduce the quantity of the service supplied in the market. The Commission also concluded that the restrictions imposed by the IDOW Rules have some element of market allocation in contravention of section 4(1)(b)(ii) of the Competition Act.

The Commission also found that there are existing regulations or legislations in the sector that cater for public health, safety and financial risks associated with the work undertaken within the built environment. The Commission is therefore of the view that these regulations, if used effectively, should suffice in protecting consumers of the built environment professional services from any wrong doing or underperformance by persons offering engineering services.

Furthermore, the Commission found that the proposed IDOW Rules are not in line with international best practice. Thus, whilst the degree of regulation of the built environment professions internationally varies, the Commission found that South Africa has opted for the most comprehensive approach, which totally regulates the professions (for example, the regulation of title, practice and identification of work for registered persons).”

- 11. The Constitution of South Africa requires that all acts shall be written and read in the spirit of the Constitution and even prohibit acts that will take away rights that were previously established. Did SACAP, or the CBE, at any stage, consider the fact that the requirements etc. contained in the CBE Act and the BEP Acts might be in conflict with the requirements of the Competitions Act or even the Constitution and investigate it as such?**
- 12. In the ambit to the Draft Document SACAP a statement is made that Council has widely consulted with interested parties and stakeholders. Please provide proof of such consultation for the current Draft IDoW especially in the light of the rejection of such by certain categories of registration.**

- 13. Where did the current format of the Matrix originate from which is based on exclusion of work that were allowed to be done by individuals prior to 01 July 2006?**

- 14. Did Council ever consider any alternative approaches to the current format as was presented to SACAP in the CBE in 2007?**

- 15. The Competitions Commissioner is of the opinion that there is enough safety build in legislation to protect the public against the design of unsafe buildings. These will obviously include the National Building Regulations and Standards Act, the OHS Act, the Consumer Protection Act and the Housing Consumer Protection Measures Act. Is the IDoW in its current draft format (and previous formats) not just a measure to protect the income of a certain group of professionals, and if not, what measures were taken to protect the rights of all categories of registration?**

PROFESSIONAL FEES / PROFESSIONAL FEES GUIDELINE

The Competitions Commissioner has recently rejected SACAP's application to be exempted from restrictions in the Competitions Act of publishing Fee Guidelines.

During 2012 SACAP published the following on their website:

“SACAP advises all Registered Persons including Voluntary Associations and members of the Public that the Guideline Professional Fees for 2013 have not been gazetted for publication.

Historically, SACAP published Professional Fee Guidelines on an annual basis which are applicable from 1 January.

SACAP was advised that it should seek a legal opinion on the matter. The legal opinion states that the Competition Act no 89 of 1998 supersedes the Architectural Professions Act 44 of 2000 and accordingly, the publication of the Professional Fees Guidelines for the period 2013 will be in contravention of the provisions of the Competition Act.

SACAP has applied the Competition Commission via the Council for the Built Environment (CBE), requesting an exemption from the regulations governing the gazetting of professional fees.”

In 2015 SACAP published in a Board Notice the new Professional Fees Guidelines and Professional Fees.

In February 2016 SACAP issued a press release that the Competitions Commission has rejected their application and that SACAP is going to appeal against the decision.

- 16. How was SACAP able to publish the Board Notice in 2015 without obtaining the permission from the Competitions Commission and by doing so, let the industry and Registered Persons believe that it was indeed so approved?**

RECOGNITION OF PRIOR LEARNING

Clause 2 states that only applicants who are registered professionals (not Candidates) and have passed the Professional Practice Exam (PPE) would be eligible for the RPL process.

Those applicants without any formal tertiary qualification will have to first register as Candidate Architectural Draughtspersons, pass the PPE and apply for registration as Professional Architectural Draughtsperson.

17. What happens to a Professional Senior Architectural Technologist and Architectural Technologist who wants to upgrade via RPL as provided for in Government Policies?

Clause 3 dealing with “MATRIX FOR RE-GRADING OF PROFESSIONALS THROUGH EXPERIENCE” appears to be in conflict with Clause 2.

18. Can SACAP clarify the conflict?

19. Does the Assessment Method as per Clause 4 comply with the required methods as specified in the below mentioned documents and either explain the clauses that applicable in the documents or give reasons as to why clause in these documents were not referred to and/or omitted?

- **RPL Assessment Manual - Oct 2005-SACAP**
- **THE SOUTH AFRICAN QUALIFICATIONS AUTHORITY National Policy for the Implementation of the Recognition of Prior Learning.**
- **Criteria and Guidelines for the Implementation of the Recognition of Prior Learning. (Funded by the European Union under the European Programme for Reconstruction and Development).**

Clause 5.3 dismiss the appeal and advise the applicant on the available processes for “upskilling”.

20. Kindly explain the process and what document can we refer to?

Clause 6: Moderation and Review states that the committee will comprise of relevantly qualified professionals and academics.

21. How will they be appointed and has peer review been included?

Each application will be screened in accordance with an online self-evaluation questionnaire and the relevant preparation guidelines for such applicant will be issued accordingly.

22. Kindly explain the self-evaluation questionnaire and preparation guidelines and which document is available which can be referred to?

Online assessment will be in the form of an online test that will assess general knowledge and skills required of the relevant category of registration applied for.

23. Kindy explain and provide a sample of test?

In the GUIDELINES FOR ASSESSMENT PANELS it is stated that academia should be involved and of a higher category of registration as the professional applying for RPL.

24. Give reasons why academia should be involved and why higher category?

25. A letter of recommendation from Employers or Clients is required. How will Clients be able to assess this?

26. Reference is made to SANS2014 and Part XA. Please provide clarification.

27. In Outcome 8 “management” is mentioned. Please clarify.

SAIAT reserves the right to ask follow up questions if the answers are not satisfactory.

On behalf of the SAIAT National Committee

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President