**REPUBLIC OF SOUTH AFRICA**

# GOVERNMENT GAZETTE

# STAATSKOERANT

**VAN DIE REPUBLIEK VAN SUID-AFRIKA**

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THE PRESIDENCY

No. 1303. 1 December 2000

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 45 of 2000: Landscape Architectural Profession Act, 2000.

DIE PRESIDENSIE

No. 1303. 1 Desember 2000

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 45 van 2000: Wet op die Landskapsargitektuurprofessie, 2000.

*(English text signed by the President.)*
*(Assented to 26 November 2000.)*

# ACT

**To provide for the establishment of a juristic person to be known as the South African Council for the Landscape Architectural Profession; to provide for the registration of professionals, candidates and specified categories in the landscape architectural profession; to provide for the regulation of the relationship between the South African Council for the Landscape Architectural Profession and the Council for the Built Environment; and to provide for matters connected therewith.**

BE IT ENACTED by the Parliament of the Republic of South Africa as follows:—

**Definitions**

**1.** In this Act, unless the context otherwise indicates—

(i) "accredit" means the process of evaluation and recognition by the council of educational programmes offered by educational institutions relating to the landscape architectural profession, and "accreditation" has a corresponding meaning;

(ii) "actively practise" means to practise on an ongoing basis in one of the categories contemplated in section 18, and includes a person qualified in the landscape architectural profession who is employed by any sphere of government or an educational institution;

(iii) "candidate"means a person who is registered in terms of section 19(2)*(b)*;

(iv) "CBE" means the Council for the Built Environment established in terms of section 2 of the Council for the Built Environment Act, 2000;

(v) "committee" means a committee established in terms of section 17;

(vi) "council" means the South African Council for Landscape Architectural Profession established by section 2;

(vii) "department" means the national department responsible for public works;

(viii) "disciplinary tribunal" means a tribunal appointed in terms of section 30;

(ix) "Minister" means the Minister responsible for public works;

(x) "prescribe" means prescribed by a rule made by the council under section 36, and "prescribed" has a corresponding meaning;

(xi) "professional" means a person who is registered in terms of section 19(2)*(a)*;

(xii) "registered person" means a person registered in one of the categories referred to in section 18;

(xiii) "registrar" means the person appointed as registrar under section 8*(a)*;

(xiv) "registration" means the process—

*(a)* of assessment of competency of applicants for the purpose of registration under this Act; and

*(b)* of entering the names of the applicants who qualify into the register referred to in section 11*(c)*;

(xv) "rule" means a rule made and in force under this Act;

*(Engelse teks deur die President geteken.)*
*(Goedgekeur op 26 November 2000.)*

# WET

**Om voorsiening te maak vir die instelling van 'n regspersoon wat bekend staan as die Suid-Afrikaanse Raad vir die Landskapsargitektuurprofessie; om voorsiening te maak vir die registrasie van professionele persone, kandidate en vermelde kategorieë in die landskapsargitektuurprofessie; om voorsiening te maak vir die regulering van die verhouding tussen die Suid-Afrikaanse Raad vir die Landskapsargitektuurprofessie en die Raad vir die Bou-omgewing; en om voorsiening te maak vir verbandhoudende sake.**

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika soos volg:—

**Woordomskrywing**

**1.** In hierdie Wet, tensy uit die samehang anders blyk, beteken—

(i) "akkrediteer" die proses van evaluering en erkenning deur die raad van opvoedkundige programme wat verband hou met die landskapsargitektuurprofessie, wat deur opvoedkundige inrigtings aangebied word en het "akkreditering" 'n ooreenstemmende betekenis;

(ii) "aktief praktiseer" op 'n deurlopende grondslag in een van die kategorieë in artikel 18 beoog, praktiseer en sluit 'n persoon in wat in die landskapsargitektuurprofessie gekwalifiseer is en wat in die diens van enige regeringsfeer of opvoedkundige inrigting is;

(iii) "departement" die nasionale departement wat vir openbare werke verantwoordelik is;

(iv) "dissiplinêre tribunaal" 'n tribunaal wat ingevolge artikel 30 aangestel word;

(v) "geregistreerde persoon" 'n persoon wat in een van die kategorieë in artikel 18 bedoel, geregistreer is;

(vi) "hierdie Wet" ook enige kennisgewing, bevel of reël wat kragtens hierdie Wet uitgevaardig of gemaak is;

(vii) "kandidaat" 'n persoon wat ingevolge artikel 19(2)*(b)* geregistreer is;

(viii) "komitee" 'n komitee wat ingevolge artikel 17 ingestel is;

(ix) "Minister" die Minister wat vir openbare werke verantwoordelik is;

(x) "professionele persoon" 'n persoon wat ingevolge artikel 19(2)*(a)* geregistreer is;

(xi) "raad" die Suid-Afrikaanse Raad vir die Landskapsargitektuurprofessie, wat by artikel 2 ingestel is;

(xii) "RBO" die Raad vir die Bou-omgewing wat ingevolge artikel 2 van die Wet op die Raad vir die Bou-omgewing, 2000, ingestel is;

(xiii) "reël" 'n reël wat kragtens hierdie Wet uitgevaardig en van krag is;

(xiv) "registrasie" die proses—

*(a)* van evaluering van die bekwaamheid van applikante vir die doel van registrasie kragtens hierdie Wet; en

*(b)* van die aanteken van die name van die applikante wat kwalifiseer in die register bedoel in artikel 11*(c)*;

(xv) "registrateur" 'n persoon wat as registrateur kragtens artikel 8(1)*(a)* aangestel is;

(xvi) "this Act" includes any notice, order or rule issued or made under this Act; and

(xvii) "voluntary association" means any voluntary association recognised by the council in terms of section 25.

**Establishment of South African Council for the Landscape Architectural Profession**

**2.** There is hereby established a juristic person to be known as the South African Council for the Landscape Architectural Profession.

**Composition of council**

**3.** (1) The council consists of the following members, appointed by the Minister, taking into account, among other things, the principles of transparency and representivity—

*(a)* six registered persons, excluding candidates of whom at least four must actively practise in the landscape architectural profession—

(i) who must be nominated by the voluntary associations and any registered person; and

(ii) who must represent the categories of registered persons contemplated in section 18, in the prescribed manner;

*(b)* two professionals in the service of the State nominated by any sphere of government, of whom at least one must be nominated by the department; and

*(c)* two members of the public nominated through an open process of public participation.

(2) A maximum of a third of the members of the Board of Control for Landscape Architects established by section 31B of the Architects' Act, 1970 (Act No. 35 of 1970), who are nominated by that Board remain in office for the first term of the council.

**Nomination procedure**

**4.** (1) When any nomination in terms of section 3(1)*(a)* or *(b)* becomes necessary, the council must invite registered persons, the voluntary associations and the State, respectively, in the prescribed manner, to nominate within a period of at least 60 days from the date of the invitation, persons who qualify for nomination in terms of section 3(1)*(a)* or *(b)*, respectively.

(2) When any nomination in terms of section 3(1)*(c)* becomes necessary, the council must invite the public, by notice in the *Gazette* and in any newspaper the council considers necessary, but in at least a leading newspaper in each province, to nominate persons for appointment to the council within a period of at least 60 days from the date of the notice.

(3) On receipt of any nomination, the council must, within 30 days from the expiry date specified in the invitation or the notice, make and submit its recommendations to the Minister.

(4) The Minister must, within 60 days from the date of the receipt of the nominations from the outgoing council, appoint the new members of the council.

(5) If the council receives no or insufficient nominations within the period specified in the invitation or the notice, the Minister may, after consultation with the council, appoint the required number of persons who qualify to be appointed in terms of this Act.

(6) The Minister must, as soon as practicable after the appointment of the members of the council, by notice in the *Gazette*, publish—

*(a)* the name of every person appointed as a member;

*(b)* the date from which the appointment takes effect; and

*(c)* the period for which the appointment is made.

(7) The Minister must, within 30 days from the date of the appointment of the council, determine the time and place of its first meeting, and, thereafter, the council must determine the time and place of any future meeting.

(xvi) "voorskryf" voorskryf deur 'n reël uitgevaardig deur die raad kragtens artikel 36, en het "voorgeskryf" 'n ooreenstemmende betekenis; en

(xvii) "vrywillige vereniging" enige vrywillige vereniging wat ingevolge artikel 25 deur die raad erken word.

**Instelling van Suid-Afrikaanse Raad vir die Landskapsargitektuurprofessie**

**2.** Daar word hierby 'n regspersoon wat as die Suid-Afrikaanse Raad vir die Landskapsargitektuurprofessie bekend staan, ingestel.

**Samestelling van raad**

**3.** (1) Die raad bestaan uit die volgende lede wat deur die Minister aangestel word met inagneming van, onder andere, die beginsels van openheid en verteenwoordiging:

*(a)* Ses geregistreerde persone, uitgesonderd kandidate, van wie minstens vier aktief in die landskapsargitektuurprofessie praktiseer—
   (i) wat deur die vrywillige verenigings en enige geregistreerde persoon genomineer word; en
   (ii) wat op die voorgeskrewe wyse verteenwoordigend is van die kategorieë geregistreerde persone beoog in artikel 18;

*(b)* twee professionele persone in diens van die Staat en genomineer deur enige sfeer van regering, van wie minstens een deur die departement genomineer moet word; en

*(c)* twee lede van die publiek genomineer deur 'n oop proses van openbare deelname.

(2) 'n Maksimum van 'n derde van die lede van die Beheerraad vir Landskapsargitekte wat ingevolge artikel 31B van die Wet op Argitekte, 1970 (Wet No. 35 van 1970), ingestel is, wat deur daardie Beheerraad genomineer word, se ampstermyn duur vir die eerste ampstermyn van die raad.

**Nominasieprosedure**

**4.** (1) Wanneer 'n nominasie ingevolge artikel 3(1)*(a)* of *(b)* nodig word, moet die raad onderskeidelik geregistreerde persone, die vrywillige verenigings en die Staat op die voorgeskrewe wyse uitnooi om persone wat vir nominasie ingevolge onderskeidelik artikel 3(1)*(a)* of *(b)* kwalifiseer, binne die tydperk van minstens 60 dae vanaf die datum van uitnodiging, te nomineer.

(2) Wanneer 'n nominasie ingevolge artikel 3(1)*(c)* nodig word, moet die raad die publiek uitnooi, by kennisgewing in die *Staatskoerant* en in enige koerant wat die raad nodig ag, maar minstens in 'n toonaangewende koerant in elke provinsie, om persone binne 'n tydperk van minstens 60 dae te nomineer vanaf die datum van die kennisgewing vir aanstelling in die raad.

(3) By ontvangs van enige nominasie moet die raad binne 30 dae van die verstrykingsdatum wat in die uitnodiging of die kennisgewing vermeld is, sy aanbevelings doen en aan die Minister voorlê.

(4) Die Minister moet binne 60 dae vanaf die datum van ontvangs van die nominasies deur die uittredende raad nuwe lede van die raad aanstel.

(5) Indien die raad geen of te min nominasies ontvang binne die tydperk wat in die uitnodiging of die kennisgewing vermeld is, kan die Minister, na oorleg met die raad, die vereiste getal persone wat ingevolge hierdie Wet kwalifiseer om as lid aangestel te word, aanstel.

(6) Die Minister moet so gou doenlik na die aanstelling van die lede van die raad, by kennisgewing in die *Staatskoerant*—

*(a)* die naam publiseer van elke persoon wat as lid aangestel is;

*(b)* die datum publiseer waarop die aanstelling geldig word; en

*(c)* die tydperk publiseer waarvoor die aanstelling gedoen word.

(7) Die Minister bepaal binne 30 dae vanaf die datum van die aanstelling van die raad die tyd en plek van sy eerste vergadering, en die raad bepaal daarna die tyd en plek van enige toekomstige vergadering.

**Term of office of members of council**

**5.** (1) The term of office for members of the council is four years, but members continue in office until the succeeding council is duly constituted.

(2) Subject to section 42(12), a member of the council may not serve for more than two consecutive terms of office.

(3) Despite subsection (1), the Minister may, by notice in the *Gazette*, after consultation with the council, extend the period of office of all the members of the council for a period of six months, but he or she may only extend the period of office twice.

(4) Despite subsection (1), the Minister may, by notice in the *Gazette*, after consultation with the council, terminate the period of office of a member or all the members of the council.

(5) The Minister may only act in terms of subsection (4) if a new member or a new council has been appointed, on nominations invited by the Minister in the manner provided for in section 4, to take over the functions of the member or the council concerned.

**Disqualification from membership of council and vacation of office**

**6.** (1) A person may not be appointed as a member of the council if that person—

*(a)* is not a South African citizen and ordinarily resident in the Republic;

*(b)* is an unrehabilitated insolvent;

*(c)* has been convicted of an offence in the Republic, other than an offence committed prior to 27 April 1994 associated with political objectives, and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

*(d)* subject to subsection (3), has been convicted of an offence in a foreign country and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

*(e)* has, as a result of improper conduct, been removed from an office of trust; or

*(f)* has in terms of this Act been found guilty by the disciplinary tribunal or the council of improper conduct.

(2) A member of the council must vacate his or her office if he or she—

*(a)* becomes disqualified in terms of subsection (1) from being appointed as a member of the council;

*(b)* resigns by written notice addressed to the registrar;

*(c)* is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (Act No.18 of 1973);

*(d)* has, without the leave of the council, been absent from more than two consecutive meetings of the council;

*(e)* was appointed in terms of section 3(1)*(a)* and after that appointment a change in his or her circumstances arises that affects the ratio of the membership referred to in section 3(1);

*(f)* was appointed in terms of section 3(1)*(b)* and ceases to be employed by the State; or

*(g)* ceases to be permanently resident in the Republic.

(3) For the purposes of subsection (1)*(d)*, the Minister must take cognisance of the prevailing circumstances in a foreign country relating to a conviction.

(4) *(a)* If a member of the council dies or vacates his or her office before the expiration of his or her term of office, the Minister may, after consultation with the council and subject to section 5(1), appoint a person to fill the vacancy for the unexpired portion of the period for which that member was appointed.

*(b)* If the Minister appoints a person to fill the vacant seat, the appointment must be made within 60 days from the date on which the vacancy occurred.

**Election of president and vice-president of council**

**7.** (1) *(a)* The members of the council must, at the first meeting of every newly constituted council elect a president and vice-president who must be registered persons and at least one must actively practise in the landscape architectural profession.

**Ampstermyn van raadslede**

**5.** (1) Die ampstermyn vir lede van die raad is vier jaar, maar die lede gaan voort om die amp te beklee totdat die opvolgende raad behoorlik saamgestel is.

(2) Behoudens artikel 42(12) mag 'n lid van die raad nie vir meer as twee opeenvolgende ampstermyne dien nie.

(3) Ondanks subartikel (1) mag die Minister, deur kennisgewing in die *Staatskoerant*, na oorleg met die raad, die ampstermyn van al die lede van die raad vir 'n tydperk van ses maande verleng, maar hy of sy kan die ampstermyn slegs twee keer verleng.

(4) Ondanks subartikel (1) kan die Minister, by kennisgewing in die *Staatskoerant*, na oorleg met die raad, die ampstermyn van een van die lede of al die lede van die raad beëindig.

(5) Die Minister kan slegs ingevolge subartikel (4) optree indien 'n nuwe lid of 'n nuwe raad aangestel is om, op grond van nominasies wat deur die Minister ingewin is op die wyse in artikel 4 voorsien, die werksaamhede van die betrokke raad of lid oor te neem.

**Onbevoegdheid ten opsigte van lidmaatskap van raad en ontruiming van amp**

**6.** (1) 'n Persoon mag nie as 'n lid van die raad aangestel word nie indien daardie persoon—

*(a)* nie 'n Suid-Afrikaanse burger en gewoonlik woonagtig in die Republiek is nie;

*(b)* 'n ongerehabiliteerde insolvent is;

*(c)* in die Republiek aan 'n misdryf skuldig bevind is, behalwe 'n misdryf wat met politieke oogmerke gepleeg is voor 27 April 1994, en gevonnis is tot gevangenisstraf sonder die keuse van 'n boete, of in die geval van bedrog, tot 'n boete of gevangenisstraf of beide;

*(d)* onderhewig aan subartikel (3), in die buiteland aan 'n misdryf skuldig bevind is en gevonnis is tot gevangenisstraf sonder die keuse van 'n boete, of in die geval van bedrog, tot 'n boete of gevangenisstraf of beide;

*(e)* as gevolg van onbehoorlike gedrag uit 'n vertrouensamp verwyder is; of

*(f)* ingevolge hierdie Wet deur 'n dissiplinêre tribunaal of die raad aan onbehoorlike gedrag skuldig bevind is.

(2) 'n Lid van die raad moet sy of haar amp ontruim indien hy of sy—

*(a)* ingevolge subartikel (1) onbevoeg raak om as lid van die raad aangestel te word;

*(b)* deur skriftelike kennisgewing aan die registrateur gerig, bedank;

*(c)* deur die Hoë Hof as geestelik onbevoeg of geestesversteurd verklaar word of kragtens die Wet op Geestesgesondheid, 1973 (Wet No. 18 van 1973) aangehou word;

*(d)* sonder verlof van die raad vir meer as twee opeenvolgende vergaderings van die raad afwesig was;

*(e)* ingevolge artikel 3(1)*(a)* aangestel is en na daardie aanstelling 'n verandering in sy of haar omstandighede ontstaan wat die verhouding van die lidmaatskap bedoel in artikel 3(1) beïnvloed;

*(f)* ingevolge artikel 3(1)*(b)* aangestel is en nie meer in diens van die Staat is nie; of

*(g)* nie meer permanent in die Republiek woonagtig is nie.

(3) Die Minister moet, vir die doeleindes van subartikel (1)*(d)*, die heersende omstandighede in daardie land wat betrekking het op 'n skuldigbevinding, in ag neem.

(4) *(a)* Indien 'n lid van die raad sterf of sy of haar amp ontruim voor die verstryking van sy of haar ampstermyn, kan die Minister na oorleg met die raad en behoudens artikel 5(1) 'n persoon aanstel om die vakature te vul vir die onverstreke deel van die tydperk waarvoor daardie lid aangestel was.

*(b)* Indien die Minister 'n persoon aanstel om die vakature te vul, moet die aanstelling binne 60 dae vanaf die datum waarop die vakature ontstaan het, gedoen word.

**Verkiesing van president en vise-president van raad**

**7.** (1) *(a)* Die lede van die raad verkies, by die eerste vergadering van elke nuut saamgestelde raad, 'n president en visepresident, wat geregistreerde persone moet wees en minstens een moet aktief in die landskapsargitektuurprofessie praktiseer.

*(b)* The president and vice-president hold office for the period of four years from the date of their appointment.

(2) The vice-president must, if the president is for any reason unable to act as president, perform all the functions and may exercise all the powers of the president.

(3) *(a)* If both the president and the vice-president are for any reason unable to preside at a council meeting, the members present must elect a person to preside at that meeting.

*(b)* The person elected may, during that meeting and until the president or vice-president resumes his or her functions, perform all the functions and exercise all the powers of the president.

**Appointment of registrar and staff members of council**

**8.** (1) The council—

*(a)* must appoint a registrar; and
*(b)* may employ such staff as it may deem necessary for the carrying out of its functions,

on such conditions, including the payment of remuneration and allowances, as it may determine, and may dismiss any person so appointed.

(2) The registrar must enter into a performance agreement, as prescribed, with the council on acceptance of his or her appointment.

(3) The registrar must perform, in addition to such functions as may otherwise be assigned to him or her by or under this Act, such functions as may from time to time be assigned to him or her by the council.

**Decisions of council**

**9.** (1) A decision of the majority of the members of the council present at any meeting constitutes a decision of the council.

(2) In the event of an equality of votes the person presiding at the meeting has a casting vote in addition to his or her deliberative vote.

(3) If the requisite majority of the members who are entitled to sit as members at a meeting of the council, make a decision or authorise an act at that meeting, the decision made or act performed under that authorisation, is valid despite the fact that at that meeting a member who had become disqualified in terms of section 6(2) but had not vacated his or her office, sat as a member.

**Administrative powers of council**

**10.** The council may—

*(a)* determine the remuneration and allowances payable to its members or the members of any committee of the council;
*(b)* arrange for the payment of pension and other benefits to any staff of the council or the registrar and to his or her dependants on the termination of the service of that staff member or the registrar;
*(c)* determine where its head office must be situated;
*(d)* determine the manner in which meetings of the council or any committee of the council must be convened, the procedure and quorum at such meetings and the manner in which the minutes of such meetings must be kept; and
*(e)* print, circulate, sell and administer the publication of, and generally take any steps necessary to publish, any publication relating to the landscape architectural profession and related matters.

**Powers of council with regard to registration**

**11.** The council may, subject to this Act—

*(a)* consider and decide on any application for registration;
*(b)* prescribe the period of validity of the registration of a registered person;

*(b)* Die president en visepresident beklee die amp vir 'n tydperk van vier jaar na hulle aanstelling.

(2) Indien die president om enige rede nie as president kan optree nie, moet die visepresident al die werksaamhede van die president verrig en kan hy of sy al die bevoegdhede van die president uitoefen.

(3) *(a)* Indien beide die president en die visepresident om enige rede nie tydens 'n raadsvergadering kan voorsit nie, moet die lede wat teenwoordig is 'n persoon kies om by daardie vergadering voor te sit.

*(b)* Die verkose persoon kan tydens daardie vergadering en totdat die president of visepresident sy of haar werksaamhede hervat, al die werksaamhede en die bevoegdhede van die president verrig en uitoefen.

**Aanstelling van registrateur en personeellede van raad**

**8.** (1) Die raad—

*(a)* moet 'n registrateur aanstel; en

*(b)* kan die personeel aanstel wat hy nodig ag vir die verrigting van die raad se werksaamhede,

op die voorwaardes, met inbegrip van die betaling van vergoeding en toelaes, wat die raad bepaal, en kan enige persoon aldus aangestel, ontslaan.

(2) Die registrateur moet, by aanvaarding van sy of haar aanstelling, 'n prestasie-ooreenkoms, soos voorgeskryf, met die raad sluit.

(3) Die registrateur moet, bykomend by die werksaamhede wat andersins by of kragtens hierdie Wet aan hom of haar opgedra word, die werksaamhede wat van tyd tot tyd deur die raad aan hom of haar opgedra word, verrig.

**Besluite van raad**

**9.** (1) 'n Besluit van die meerderheid van die lede van die raad wat by enige vergadering teenwoordig is, maak 'n besluit van die raad uit.

(2) In geval van 'n staking van stemme, het die persoon wat voorsit by die vergadering, benewens sy of haar beraadslagende stem, ook 'n beslissende stem.

(3) Indien die vereiste meerderheid van lede wat geregtig is om as lede sitting te neem tydens 'n vergadering van die raad, 'n besluit neem of 'n handeling magtig tydens daardie vergadering, is die besluit geneem of 'n handeling verrig kragtens daardie magtiging, geldig, ten spyte van die feit dat 'n lid wat ingevolge artikel 6(2) as lid gediskwalifiseer was maar wat nie sy of haar amp ontruim het nie, tydens daardie vergadering as lid sitting geneem het.

**Raad se administratiewe bevoegdhede**

**10.** Die raad kan—

*(a)* die vergoeding en toelaes wat aan sy lede of die lede van enige komitee van die raad betaalbaar is, na oorlegpleging met die RBO bepaal;

*(b)* vir die betaling van pensioen en ander voordele aan enige personeellid van die raad of die registrateur en sy of haar afhanklikes by die diensbeëindiging van daardie personeellid of registrateur reël;

*(c)* bepaal waar sy hoofkantoor geleë moet wees;

*(d)* die wyse waarop vergaderings van die raad of enige komitee van die raad byeengeroep moet word, die prosedure en kworum by sodanige vergaderings en die wyse waarop notule van daardie vergaderings gehou moet word, bepaal; en

*(e)* 'n publikasie met betrekking tot die landskapsargitektuurprofessie en verbandhoudende aangeleenthede druk, versprei en verkoop en die publisering daarvan administreer en enige nodige stappe doen om so 'n publikasie te publiseer.

**Raad se bevoegdhede met betrekking tot registrasie**

**11.** Die raad kan, behoudens hierdie Wet—

*(a)* 'n aansoek om registrasie oorweeg en daaroor besluit;

*(b)* die geldigheidstydperk van die registrasie van 'n geregistreerde persoon voorskryf;

(c) keep a register of registered persons and decide on—
   (i) the form of certificates and the register to be kept;
   (ii) the maintenance of the register or issuing of certificates; and
   (iii) the reviewing of the register and certificates and the manner in which alterations thereto may be effected.

**Powers of council with regard to fees and charges**

**12.** (1) The council may, with regard to fees and charges, which are payable to the council, determine—
(a) application fees;
(b) registration fees;
(c) annual fees, or portion thereof, in respect of a part of a year;
(d) the date on which any fee or charge is payable;
(e) the fees, or portion thereof, payable in respect of any examination referred to in section 19, conducted by or on behalf of the council;
(f) any charge payable for the purposes of the education fund referred to in section 15(5);
(g) fees payable for a service referred to in section 14*(c)*;
(h) the fees payable for an appeal in terms of section 24(1); or
(i) any other fee or charge it considers necessary.

(2) The council may grant exemption from payment of application fees, registration fees, annual fees, charges, or a portion thereof referred to in subsection (1).

**Powers of council with regard to education in landscape architecture**

**13.** The council may—
(a) subject to sections 5 and 7 of the Higher Education Act, 1997 (Act No. 101 of 1997), conduct accreditation visits to any educational institution which has a department, school or faculty which offers landscape architectural educational programmes, but must conduct at least one such visit during its term of office. If the council does not conduct an accreditation visit within that term of office, it must notify the Minister accordingly and provide him or her with reasons for the failure to do so;
(b) either conditionally or unconditionally grant, refuse or withdraw accreditation with regard to all educational institutions and their educational programmes with regard to landscape architecture;
(c) consult with the Council on Higher Education established in terms of the Higher Education Act, 1997, regarding matters relevant to education in landscape architecture;
(d) consult with the South African Qualifications Authority established by the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), or any body established by it and the voluntary associations, to determine competency standards for the purpose of registration;
(e) establish mechanisms for registered persons to gain recognition of their qualifications and professional status in other countries;
(f) liaise with the relevant National Standards Body established in terms of Chapter 3 of the regulations under the South African Qualifications Authority Act, 1995, with a view to the establishment of a standards generating body in terms of those regulations;
(g) recognise or withdraw the recognition of any examination contemplated in section 19;
(h) enter into an agreement with any person or body of persons, within or outside the Republic, with regard to the recognition of any examination or qualification for the purposes of this Act;
(i) give advice or render assistance to any educational institution, voluntary association or examining body with regard to educational facilities for and the training and education of registered persons and prospective registered persons;
(j) conduct any examination for the purposes of section 19; and
(k) determine, after consultation with the voluntary associations and registered persons, conditions relating to and the nature and extent of continuing education and training.

*(c)* 'n register van geregistreerde persone hou en besluit oor—
(i) die formaat van sertifikate en die register wat gehou moet word;
(ii) die byhou van die register of die uitreiking van sertifikate; en
(iii) die hersiening van die register en sertifikate en die wyse waarop veranderings daarop aangebring kan word.

**Raad se bevoegdhede met betrekking tot gelde en heffings**

**12.** (1) Die raad kan met betrekking tot gelde en heffings wat aan die raad betaalbaar is, die volgende bepaal:

*(a)* Aansoekgelde;
*(b)* registrasiegelde;
*(c)* jaargelde of gedeelte daarvan met betrekking tot 'n gedeelte van 'n jaar;
*(d)* die datum waarop enige gelde of heffing betaalbaar word;
*(e)* die gelde of gedeelte daarvan wat betaalbaar is met betrekking tot enige eksamen bedoel in artikel 19 wat deur of namens die raad afgeneem word;
*(f)* enige heffing wat betaalbaar is vir die doeleindes van die onderrigfonds bedoel in artikel 15(5);
*(g)* gelde betaalbaar vir 'n diens bedoel in artikel 14*(c)*;
*(h)* die gelde betaalbaar vir 'n appèl ingevolge artikel 24(1); of
*(i)* enige ander gelde of heffing wat hy nodig ag.

(2) Die raad kan vrystelling verleen van die betaling van aansoekgelde, registrasiegelde, jaargelde of heffings bedoel in subartikel (1), of van 'n gedeelte daarvan.

**Bevoegdhede van raad met betrekking tot onderrig in landskapsargitektuur**

**13.** Die raad kan—

*(a)* behoudens artikels 5 en 7 van die Wet op Hoër Onderwys, 1997 (Wet No. 101 van 1997), akkrediteringsbesoeke bring aan enige opvoedkundige inrigting wat 'n departement, skool of fakulteit van landskapsargitektuur het, maar moet minstens een so 'n besoek gedurende die raad se ampstermyn bring, en indien die raad nie 'n akkrediteringsbesoek binne die ampstermyn bring nie, moet hy die Minister dienooreenkomstig inlig en aan hom of haar redes verstrek vir die versuim om so 'n besoek te bring;
*(b)* voorwaardelik of onvoorwaardelik akkreditering aan alle opvoedkundige inrigtings en hul opvoedkundige programme met betrekking tot landskapsargitektuur toestaan, weier of terugtrek;
*(c)* met die Raad vir Hoër Onderwys ingestel ingevolge die Wet op Hoër Onderwys, 1997, oorleg pleeg met betrekking tot sake wat verband hou met onderrig in landskapsargitektuur;
*(d)* met die Suid-Afrikaanse Kwalifikasie-owerheid, ingestel deur die Wet op die Suid-Afrikaanse Kwalifikasie-owerheid, 1995 (Wet No. 58 van 1995), of enige liggaam wat daardeur ingestel is en die vrywillige verenigings oorleg pleeg om bevoegdheidstandaarde vir die doel van registrasie te bepaal;
*(e)* meganismes instel vir geregistreerde persone om erkenning van hul kwalifikasies en professionele status in ander lande te verkry;
*(f)* met die betrokke Nasionale Standaardeliggaam, ingestel ingevolge Hoofstuk 3 van die regulasies kragtens die Wet op die Suid-Afrikaanse Kwalifikasie-owerheid, 1995, skakel met die oog op die stigting ingevolge daardie regulasies van 'n liggaam wat standaarde ontwikkel;
*(g)* enige eksamen beoog in artikel 19 erken of die erkenning daarvan terugtrek;
*(h)* 'n ooreenkoms met enige persoon of liggaam van persone binne of buite die Republiek aangaan met betrekking tot die erkenning van enige eksamen of kwalifikasie vir die doeleindes van hierdie Wet;
*(i)* aan enige opvoedkundige inrigting, vrywillige vereniging of eksamineringsliggaam raad gee of hulp verleen met betrekking tot opvoedkundige fasiliteite vir en die opleiding en onderrig van geregistreerde persone en voornemende geregistreerde persone;
*(j)* enige eksamen vir die doeleindes van artikel 19, afneem; en
*(k)* na oorleg met die vrywillige verenigings en geregistreerde persone, voorwaardes met betrekking tot en die aard en omvang van voortgesette onderrig en opleiding bepaal.

**General powers of council**

**14.** The council may, in addition to other powers in this Act—

*(a)* acquire, hire, maintain, let, sell or otherwise dispose of movable or immovable property for the effective performance and exercise of its functions, duties or powers;

*(b)* decide upon the manner in which contracts must be entered into on behalf of the council;

*(c)* perform any service within its competence if it is requested by any person or body of persons, including the State;

*(d)* determine, subject to section 25, the requirements with which a voluntary association must comply to qualify for recognition by the council;

*(e)* advise the Minister, any other Minister or the CBE on any matter relating to the landscape architectural profession;

*(f)* encourage and itself undertake research into matters relating to the landscape architectural profession;

*(g)* take any steps it considers necessary for the protection of the public in their dealings with registered persons for the maintenance of the integrity, and the enhancement of the status of the landscape architectural profession;

*(h)* take any steps it considers necessary for the improvement of the standards of services rendered by registered persons;

*(i)* create an awareness amongst registered persons of the importance to protect the environment against unsound landscape architectural practices;

*(j)* take any steps which it considers necessary, where, as a result of landscape architectural related undertakings, public health and safety is prejudiced; and

*(k)* take any measures it considers necessary for the proper performance and exercise of its functions, duties or powers or to achieve the objectives of this Act.

**Funds of council and keeping and auditing of accounts**

**15.** (1) The funds of the council consist of any money received in terms of this Act and all other monies which may accrue to the council from any other legal source, including fines and penalties imposed by the council.

(2) The council may—

*(a)* collect and invest funds of the council;

*(b)* raise money by way of loan for the purpose of effectively performing its functions;

*(c)* with a view to the promotion of any matter relating to the landscape architectural profession, lend money against such security as the council considers adequate; and

*(d)* mortgage any of its immovable property as security for a loan referred to in paragraph *(b)*.

(3) The council may remunerate its members and committee members from its funds.

(4) The council may finance any publication referred to in section 10*(e)*.

(5) The council may establish and administer an education fund for the purpose of education, training and continuing education and training of registered persons and students in the landscape architectural profession.

(6) The council must keep full and correct account of all monies received and expended by it.

(7) *(a)* The council must annually prepare a statement of income and expenditure and a balance sheet showing its financial position as at the close of the financial year to which it relates.

*(b)* The council must have the statement and balance sheet audited by an auditor registered in terms of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991).

*(c)* A copy of the audited statement and balance sheet must be open for inspection at the offices of the council.

**Algemene bevoegdhede van raad**

**14.** Die raad kan, benewens die ander bevoegdhede in hierdie Wet—

*(a)* roerende of onroerende eiendom vir die effektiewe doelmatige verrigting en uitoefening van sy werksaamhede, pligte of bevoegdhede verkry, huur, onderhou, verhuur, verkoop of andersins vervreem;

*(b)* op die wyse waarop kontrakte namens die raad gesluit moet word, besluit;

*(c)* enige diens binne sy bevoegdheid verrig indien dit versoek word deur enige persoon of liggaam van persone, met inbegrip van die Staat;

*(d)* behoudens artikel 25 die vereistes waaraan 'n vrywillige vereniging moet voldoen om vir erkenning deur die raad te kwalifiseer, bepaal;

*(e)* die Minister, enige ander Minister of die RBO oor enige saak rakende die landskapsargitektuurprofessie adviseer;

*(f)* navorsing oor sake wat met die landskapsargitektuurprofessie verband hou, aanmoedig en self onderneem;

*(g)* enige stappe doen wat hy nodig ag vir die beskerming van die publiek in hulle omgang met geregistreerde persone, vir die handhawing van die integriteit en die bevordering van die status van die landskapsargitektuurprofessie;

*(h)* enige stappe wat hy nodig ag, doen vir die verbetering van die standaarde van die dienste gelewer deur geregistreerde persone;

*(i)* 'n bewustheid van die belangrikheid daarvan om die omgewing teen gebrekkige landskapsargitektuurpraktyke te beskerm onder geregistreerde persone aanwakker;

*(j)* enige stappe doen wat hy nodig ag waar die openbare gesondheid en veiligheid as gevolg van landskapsargitektuurverwante ondernemings benadeel word; en

*(k)* enige maatreëls tref wat hy nodig ag vir die behoorlike verrigting en uitoefening van sy werksaamhede, pligte of bevoegdhede, of om die doelstellings van hierdie Wet te bereik.

**Fondse van raad en hou en ouditering van rekeninge**

**15.** (1) Die fondse van die raad bestaan uit enige geld ontvang ingevolge hierdie Wet en al die ander gelde wat die raad toekom uit enige ander regsbron, met inbegrip van boetes en strawwe deur die raad opgelê.

(2) Die raad kan—

*(a)* die fondse van die raad insamel en belê;

*(b)* met die doel om sy werksaamhede behoorlik te verrig, geld deur middel van lenings bekom;

*(c)* met die oog op die bevordering van enige saak wat met die landskapsargitektuurprofessie verband hou, geld uitleen teen die sekuriteit wat die raad voldoende ag; en

*(d)* 'n verband neem oor enige van die onroerende goed van die raad as sekuriteit vir 'n lening bedoel in paragraaf *(b)*.

(3) Die raad kan sy lede en komiteelede uit sy fondse betaal.

(4) Die raad kan enige publikasie bedoel in artikel 10*(e)* finansier.

(5) Die raad kan 'n onderrigfonds stig en administreer vir die doeleindes van onderrig, opleiding en voortgesette onderrig en opleiding van geregistreerde persone en studente in die landskapsargitektuurprofessie.

(6) Die raad moet volledig en korrek rekening hou van al die gelde deur hom ontvang en bestee.

(7) *(a)* Die raad moet jaarliks 'n staat van inkomste en uitgawes en 'n balansstaat voorberei wat sy finansiële posisie aan die einde van die boekjaar waarop dit betrekking het, weergee.

*(b)* Die raad moet die staat van inkomste en uitgawes en balansstaat laat ouditeer deur 'n ouditeur wat geregistreer is ingevolge die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991).

*(c)* 'n Afskrif van die geouditeerde staat van inkomste en uitgawes en balansstaat moet ter insae wees by die kantore van die raad.

(8) The council must, within six months from the close of each financial year or such other period as may be agreed to by the Minister after a request by the council, submit the audited statement and balance sheet to the Minister and must provide a copy to the CBE.

(9) The Minister may, with the concurrence of the Minister of Finance—

*(a)* advance or grant to the council, out of money appropriated by Parliament, such amounts as he or she considers necessary in order to enable the council to carry out its functions; and

*(b)* determine the conditions to and repayment of the advance.

(10) The council must determine its financial year.

(11) The council must apply due care and diligence when investing any money or incurring any expenditure from the funds of the council.

**Reports to CBE**

**16.** (1) The council must, within six months from the close of each financial year, provide the CBE with a report regarding its activities during that financial year, for the purpose of section 4 of the Council for the Built Environment Act, 2000.

(2) A copy of the report and the register referred to in section 11*(c)* must be open for inspection at the offices of the council.

(3) The council must, on request by the CBE, provide the CBE with any information regarding a registered person.

**Committees of council**

**17.** (1) *(a)* The council may establish any committee, including an investigating committee, to assist it in the performance of its functions and may appoint any person as a member of that committee.

*(b)* If the council does not designate a chairperson for a committee, the committee may, at its first meeting, elect a chairperson from among its members.

*(c)* The council may at any time dissolve or reconstitute a committee.

(2) Section 9 may, with the necessary changes, apply in respect of a committee of the council.

**Categories of registration**

**18.** The categories in which a person may register in the landscape architectural profession are—

*(a)* professional, which is divided into—
  (i) Professional Landscape Architect;
  (ii) Professional Landscape Technologist;
  (iii) Professional Landscape Technician; or
  (iv) Professional Landscape Assistant; or

*(b)* candidate, which is divided into—
  (i) Candidate Landscape Architect;
  (ii) Candidate Landscape Technologist;
  (iii) Candidate Landscape Technician; or
  (iv) Candidate Landscape Assistant; or

*(c)* specified categories prescribed by the council.

(2) A person may not practise in any of the categories contemplated in subsection (1), unless he or she is registered in that category.

(3) A person who is registered in the category of candidate must perform work in the landscape architectural profession only under the supervision and control of a professional of a category, as prescribed.

**Registration**

**19.** (1) *(a)* A person must apply, in the prescribed application form, to the council for registration in a category referred to in section 18(1).

*(b)* The application form referred to in paragraph *(a)* must be accompanied by the prescribed fee.

(8) Die raad moet binne ses maande na die afsluiting van elke boekjaar of sodanige ander tydperk waartoe die Minister toestem na 'n versoek deur die raad, die geouditeerde staat en balansstaat aan die Minister voorlê en 'n afskrif daarvan aan die RBO voorsien.

(9) Die Minister kan, met die instemming van die Minister van Finansies—

*(a)* uit geld wat deur die Parlement bewillig is, die bedrae wat hy of sy nodig ag aan die raad voorskiet of toeken om die raad in staat te stel om sy werksaamhede te verrig; en

*(b)* die voorwaardes vir en die terugbetaling van die voorskot bepaal.

(10) Die raad moet sy boekjaar bepaal.

(11) Die raad moet die nodige sorg en noulettendheid aan die dag lê in die belê van enige geld of die aangaan van enige uitgawes uit fondse van die raad.

**Verslae aan RBO**

**16.** (1) Vir die doel van artikel 4 van die Wet op die Raad vir die Bouomgewing, 2000, moet die raad binne ses maande na die afsluiting van elke boekjaar aan die RBO 'n verslag voorsien met betrekking tot sy aktiwiteite gedurende daardie boekjaar.

(2) 'n Afskrif van die verslag en die register bedoel in artikel 11*(c)* moet ter insae wees by die kantore van die raad.

(3) Die raad moet op versoek van die RBO aan die RBO enige inligting met betrekking tot 'n geregistreerde persoon verstrek.

**Komitees van raad**

**17.** (1) *(a)* Die raad kan enige komitee, met inbegrip van 'n komitee van ondersoek, instel om hom by te staan in die verrigting van sy werksaamhede en kan enige persoon as 'n lid van daardie komitee aanstel.

*(b)* Indien die raad nie 'n voorsitter vir 'n komitee aanstel nie, kan die komitee by sy eerste vergadering 'n voorsitter uit sy geledere kies.

*(c)* Die raad kan te eniger tyd 'n komitee ontbind of hersaamstel.

(2) Artikel 9 kan, met die nodige veranderings, toegepas word met betrekking tot 'n komitee van die raad.

**Kategorieë vir registrasie**

**18.** (1) Die kategorieë waarin 'n persoon in die landskapsargitektuurprofessie kan registreer, is—

*(a)* professionele persoon, wat verdeel is in—
   (i) Professionele Landskapsargitek;
   (ii) Professionele Landskapstegnoloog;
   (iii) Professionele Landskapstegnikus; of
   (iv) Professionele Landskapsassistent;

*(b)* kandidaat, wat verdeel is in—
   (i) Kandidaatlandskapsargitek;
   (ii) Kandidaatlandskapstegnoloog;
   (iii) Kandidaatlandskapstegnikus; of
   (iv) Kandidaatlandskapsassistent; of

*(c)* vermelde kategorieë wat die raad voorskryf.

(2) 'n Persoon mag nie in enige van die kategorieë in subartikel (1) beoog, praktiseer nie tensy hy of sy in daardie kategorie geregistreer is.

(3) 'n Persoon wat in die kandidaatkategorie geregistreer is, kan werk in die landskapsargitektuurprofessie verrig slegs onder die toesig en beheer van 'n professionele persoon van 'n voorgeskrewe kategorie.

**Registrasie**

**19.** (1) *(a)* 'n Persoon moet op die voorgeskrewe aansoekvorm by die raad om registrasie in 'n kategorie soos in artikel 18(1) bedoel, aansoek doen.

*(b)* Die aansoekvorm in paragraaf *(a)* bedoel, moet vergesel gaan van die voorgeskrewe gelde.

(2) The council must register the applicant in the relevant category and issue a registration certificate to the successful applicant in the prescribed form if, after consideration of an application, the council is satisfied that the applicant—

*(a)* in the case of a person applying for registration as a professional—

(i) has demonstrated his or her competence as measured against standards determined by the council for the relevant category of registration; and

(ii) has passed any additional examinations that may be determined by the council;

*(b)* in the case of a person applying for registration as a candidate or as a candidate in a specified category, has satisfied the relevant educational outcomes determined by the council for this purpose, by—

(i) having passed accredited or recognised examinations at any educational institution offering educational programmes in landscape architecture; and

(ii) having passed any other examination that may be determined by the council; or

(iii) presenting evidence of prior learning in landscape architecture.

(3)*(a)* Despite subsection (2), the council may refuse to register an applicant—

(i) if the applicant has been removed from an office of trust on account of improper conduct;

(ii) has been convicted of an offence in the Republic, other than an offence committed prior to 27 April 1994 associated with political objectives, and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

(iii) if the applicant has, subject to paragraph *(b)*, been convicted of an offence in a foreign country and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

(iv) if the applicant is declared by the High Court to be of unsound mind or mentally disordered, or is detained under the Mental Health Act, 1973;

(v) for as long as the applicant is disqualified from registration as a result of any punishment imposed on him or her under this Act;

(vi) if the applicant is an unrehabilitated insolvent whose insolvency was caused by his or her negligence or incompetence in performing work falling within the scope of the category in respect of which he or she is applying for registration.

*(b)* For the purposes of paragraph *(a)*(iii), the council must take cognisance of the prevailing circumstances in a foreign country relating to a conviction.

*(c)* The council must provide the applicant with a notice of a refusal referred to in paragraph *(a)*.

(4) For the purposes of this section "prior learning" means the previous learning and experience of a learner, howsoever obtained, against the learning outcomes required for a specified qualification and the acceptance for the purposes of qualification of that which meets those requirements.

**Cancellation of registration**

**20.** (1) *(a)* The council may cancel the registration of a registered person if he or she—

(i) becomes disqualified from registration as contemplated in section 19(3);

(ii) has erroneously been registered, or has been registered on information subsequently proved to be false; or

(iii) fails to pay the prescribed annual fee or portion thereof, within 60 days from it becoming due or within such further period as the council may allow, either before or after the expiry of the 60 days.

*(b)* The council must provide the registered person with a notice of a cancellation referred to in paragraph *(a)*.

(2) If a person who is registered as a candidate qualifies to be registered as a professional in terms of section 19(2)*(a)*, the council must cancel his or her registration as a candidate.

(2) Indien die raad na oorweging van 'n aansoek oortuig is dat die applikant—

*(a)* in die geval van 'n persoon wat aansoek doen om registrasie as 'n professionele persoon—

(i) sy of haar bevoegdheid gemeet volgens standaarde wat deur die raad vir die betrokke kategorie vir registrasie bepaal is, bewys het; en

(ii) in enige bykomende eksamens wat deur die raad bepaal word, geslaag het;

*(b)* in die geval van 'n persoon wat aansoek doen om registrasie as 'n kandidaat of 'n kandidaat in 'n vermelde kategorie, die betrokke opvoedkundige uitkomste deur die raad vir hierdie doel bepaal, bereik het, deur—

(i) in die geakkrediteerde of erkende eksamens by enige opvoedkundige inrigting wat opvoedkundige programme in landskapsargitektuur aanbied, te slaag;

(ii) in enige ander eksamen wat deur die raad bepaal word, te slaag; of

(iii) bewys van voorafgaande kennis van landskapsargitektuur lewer,

moet die raad die applikant in die betrokke kategorie registreer en, indien die applikant suksesvol is, aan hom of haar 'n registrasiesertifikaat in die voorgeskrewe formaat uitreik.

(3) *(a)* Ondanks subartikel (2) kan die raad weier om 'n applikant te registreer—

(i) indien die applikant op grond van onbehoorlike gedrag uit 'n vertrouensamp ontslaan is;

(ii) indien die applikant in die Republiek aan 'n misdryf skuldig bevind is, behalwe 'n misdryf wat met politieke oogmerke gepleeg is voor 27 April 1994, en gevonnis is tot gevangenisstraf sonder die keuse van 'n boete, of in die geval van bedrog, tot 'n boete of gevangenisstraf of beide;

(iii) onderhewig aan paragraaf *(b)*, indien die applikant in die buiteland aan 'n misdryf skuldig bevind is en gevonnis is tot gevangenisstraf sonder die keuse van 'n boete, of in die geval van bedrog, tot 'n boete of gevangenisstraf of beide;

(iv) indien die applikant deur die Hoë Hof as geestelik onbevoeg of geestesversteurd verklaar word of kragtens die Wet op Geestesgesondheid, 1973, aangehou word;

(v) solank as wat die applikant onbevoeg is om te registreer as gevolg van enige straf wat hom of haar kragtens hierdie Wet opgelê is;

(vi) indien die applikant 'n ongerehabiliteerde insolvent is wie se insolvensie deur sy of haar nalatigheid of onbevoegdheid in die verrigting van werk wat ressorteer binne die trefwydte van die kategorie waarin hy of sy aansoek doen om te registreer, veroorsaak is.

*(b)* Die raad moet, vir die doeleindes van paragraaf *(a)*(iii), die heersende omstandighede in daardie land wat betrekking het op 'n skuldigbevinding, in ag neem.

*(c)* Die raad moet die applikant van 'n kennisgewing van weiering in paragraaf *(a)* bedoel, voorsien.

(4) Vir die doeleindes van hierdie artikel beteken "voorafgaande kennis" die vorige kennis en ondervinding deur 'n leerder op enige wyse opgedoen, teen die leerresultaat wat vir 'n spesifieke kwalifikasie vereis word en die aanvaarding vir die doeleindes van kwalifisering van dit wat daardie vereistes bereik.

**Kansellering van registrasie**

**20.** (1) *(a)* Die raad kan die registrasie van 'n geregistreerde persoon kanselleer indien hy of sy—

(i) onbevoeg word om te registreer soos beoog in artikel 19(3)*(a)*;

(ii) verkeerdelik geregistreer is of geregistreer is op grond van inligting wat daarna vals blyk te wees; of

(iii) versuim om die voorgeskrewe jaargeld of gedeelte daarvan binne 60 dae nadat dit betaalbaar word of binne die verdere tydperk wat die raad voor of na die verloop van die 60 dae toelaat, te betaal.

*(b)* Die raad moet die geregistreerde persoon van 'n kennisgewing van 'n kansellering bedoel in paragraaf *(a)* voorsien.

(2) Indien 'n persoon wat as 'n kandidaat geregistreer is, bevoeg is om ingevolge artikel 19(2)*(a)* as 'n professionele persoon geregistreer te word, moet die raad sy of haar registrasie as 'n kandidaat kanselleer.

(3) The council must at the written request of any registered person cancel his or her registration, but where an investigation into alleged improper conduct by that person is in progress or is to be held, the registration may not be cancelled until the investigation has been concluded.

(4) Despite the cancellation of the registration of a registered person in terms of this section, that person remains liable for any fee, arrears or penalty imposed by the council for the period that he or she was registered.

**Authorised titles**

**21.** (1) A person who is registered in any of the categories referred to in section 18(1) may describe himself or herself as and use the title—

*(a)* Professional Landscape Architect;
*(b)* Professional Landscape Technologist;
*(c)* Professional Landscape Technician;
*(d)* Professional Landscape Assistant;
*(e)* Candidate Landscape Architect;
*(f)* Candidate Landscape Technologist;
*(g)* Candidate Landscape Technician; or
*(h)* Candidate Landscape Assistant.

(2) A registered person may use a title prescribed by the council for the specified category.

(3) A registered person must use his or her title in all landscape architectural reports and other documentation relating to his or her work in the landscape architectural profession, prepared by or for him or her.

(4) The council may determine abbreviations or acronyms for the titles referred to in subsection (1).

**Renewal of registration**

**22.** (1) A registered person must, at least three months prior to the prescribed expiry date of his or her registration, apply in the prescribed manner to the council for the renewal of his or her registration.

(2) The council may determine conditions for the renewal of registration.

(3) Subject to section 19, the council must, on application, register a person who was previously registered and whose registration was cancelled in terms of section 20(1)*(a)*(iii), if he or she has paid—

*(a)* the prescribed fee;
*(b)* any arrear annual fee or portion thereof;
*(c)* any expenses incurred by the council in connection with the recovery of any arrear fees; and
*(d)* any penalties imposed on him or her by the council.

**Return of registration certificate**

**23.** Any person whose registration has been cancelled in terms of this Act, must return his or her registration certificate to the registrar within 30 days from the date on which he or she is directed by the registrar in writing to do so.

**Grievance procedure in relation to registration**

**24.** (1) If an applicant is of the opinion that a committee, in its refusal to register him or her, or to cancel his or her registration, other than a cancellation in terms of section 20(1)*(a)*(iii) or 32(3)*(a)*(iv), did not comply with section 33 of the Constitution, that applicant may, on payment of the prescribed fees and within 30 days from the date on which the refusal or cancellation came to his or her knowledge, appeal to the council against that decision.

(2) The council must, at its first ensuing meeting, within 60 days from the date of the receipt of the appeal, decide on the appeal and provide the appellant with reasons for its decision.

(3) Die raad moet op die skriftelike versoek van enige geregistreerde persoon sy of haar registrasie kanselleer, maar waar 'n ondersoek na beweerde onbehoorlike gedrag deur daardie persoon aan die gang is of gedoen moet word, mag die registrasie nie gekanselleer word nie totdat die ondersoek afgehandel is.

(4) Ondanks die kansellering van die registrasie van 'n geregistreerde persoon ingevolge hierdie artikel, bly daardie persoon aanspreeklik vir enige gelde, agterstallige gelde of boete wat deur die raad aan daardie persoon opgelê is vir die tydperk wat hy of sy geregistreer was.

**Gemagtigde titels**

**21.** (1) 'n Persoon wat geregistreer is in enige van die kategorieë in artikel 18(1) bedoel, kan hom of haar beskryf as en die titel—

*(a)* Professionele Landskapsargitek;
*(b)* Professionele Landskapstegnoloog;
*(c)* Professionele Landskapstegnikus;
*(d)* Professionele Landskapsassistent;
*(e)* Kandidaatlandskapsargitek;
*(f)* Kandidaatlandskapstegnoloog;
*(g)* Kandidaatlandskapstegnikus; of
*(h)* Kandidaatlandskapsassistent,

na gelang van die geval, gebruik.

(2) 'n Geregistreerde persoon kan 'n titel gebruik wat deur die raad vir die vermelde kategorie voorgeskryf is.

(3) 'n Geregistreerde persoon moet sy of haar titel in alle landskapsargitektuurverslae en ander dokumente wat met sy of haar werk in die landskapsargitektuurprofessie verband hou wat deur hom of haar of vir hom of haar voorberei is, gebruik.

(4) Die raad kan afkortings of akronieme vir die titels in subartikel (1) bedoel, bepaal.

**Hernuwing van registrasie**

**22.** (1) 'n Geregistreerde persoon moet minstens drie maande voor die voorgeskrewe verstrykingsdatum van sy of haar registrasie, op die voorgeskrewe wyse by die raad om die hernuwing van sy of haar registrasie aansoek doen.

(2) Die raad kan voorwaardes vir die hernuwing van registrasie bepaal.

(3) Die raad moet, behoudens artikel 19, op aansoek 'n persoon wat vantevore geregistreer was en wie se registrasie gekanselleer is ingevolge artikel 20(1)*(a)*(iii), registreer indien hy of sy—

*(a)* die voorgeskrewe gelde;
*(b)* enige agterstallige jaargeld of gedeelte daarvan;
*(c)* enige uitgawes deur die raad aangegaan in verband met die verhaal van agterstallige gelde; en
*(d)* enige boetes wat hom of haar deur die raad opgelê is,

betaal het.

**Terugbesorging van registrasiesertifikaat**

**23.** Enige persoon wie se registrasie ingevolge hierdie Wet gekanselleer is, moet binne 30 dae vanaf die datum waarop die registrateur hom of haar skriftelik gelas om sy of haar registrasiesertifikaat terug te besorg, dit aan die registrateur terugbesorg.

**Grieweprosedure met betrekking tot registrasie**

**24.** (1) Indien 'n applikant van mening is dat 'n komitee, in sy weiering om hom of haar te registreer, of om sy of haar registrasie te kanselleer, buiten 'n kansellering ingevolge artikel 20(1)*(a)*(iii) of 32(3)*(a)*(iv), nie aan artikel 33 van die Grondwet voldoen het nie, kan daardie applikant teen betaling van die voorgeskrewe gelde en binne 30 dae van die datum waarop die weiering of kansellering tot sy of haar kennis gekom het, na die raad teen daardie besluit appelleer.

(2) Die raad moet tydens sy eersvolgende vergadering, binne 60 dae vanaf die datum van ontvangs van die appèl, oor die appèl beslis en die appellant van redes vir sy besluit voorsien.

(3) If an appeal is lodged against a refusal of a committee to renew the registration of a registered person, the registration of that person may not be cancelled until the appeal has been decided.

**Recognition of voluntary associations**

**25.** (1) The council must, within 90 days from the date of its first meeting, submit the framework for the requirements for recognition of a voluntary association to the CBE for approval.

(2) Any voluntary association may apply to the council to be recognised as such.

(3) The council may, if the voluntary association complies with the requirements determined in terms of section 14*(d)*, recognise that association and issue it with a certificate of recognition.

(4) A certificate of recognition is valid for a period of five years from the date of issue.

(5) A voluntary association must display its certificate of recognition in a prominent place at its head office.

(6) The recognition of a voluntary association lapses—

*(a)* if that association no longer complies with the requirements contemplated in section 14*(d)*; or

*(b)* at the expiry of the five-year period referred to in subsection (4).

(7) A voluntary association must, at least three months prior to the expiry of its recognition, apply in the prescribed manner to the council for the renewal thereof.

(8) A voluntary association whose recognition has lapsed must, within 30 days from the date on which it is so directed in writing by the council, return its certificate of recognition.

**Identification of work**

**26.** (1) The council must consult with—

*(a)* all voluntary associations;

*(b)* any person;

*(c)* any body; or

*(d)* any industry,

that may be affected by any laws regulating the built environment professions regarding the identification of the type of landscape architectural work which may be performed by persons registered in any of the categories referred to in section 18, including work which may fall within the scope of any other profession regulated by the professions' Acts referred to in the Council for the Built Environment Act, 2000.

(2) After the process of consultation the council must submit recommendations to the CBE regarding the work identified in terms of subsection (1), for its consideration and identification in terms of section 20 of the Council for the Built Environment Act, 2000.

(3) A person who is not registered in terms of this Act, may not—

*(a)* perform any kind of work identified for any category of registered persons;

*(b)* pretend to be, or in any manner hold or allow himself or herself to be held out as a person registered in terms of this Act;

*(c)* use the name of any registered person or any name or title referred to in section 18 or 21; or

*(d)* perform any act indicating, or calculated to lead persons to believe, that he or she is registered in terms of this Act.

(4) Subsection (3)*(a)* may not be construed as prohibiting any person from performing work identified in terms of this section, if such work is performed in the service of or by order of and under the direction, control, supervision of or in association with a registered person entitled to perform the work identified and who must assume responsibility for any work so performed.

(3) Indien 'n appèl teen 'n weiering van 'n komitee om die registrasie van 'n geregistreerde persoon te hernu, aanhangig gemaak is, mag die registrasie van daardie persoon nie gekanselleer word nie totdat die appèl beslis is.

**Erkenning van vrywillige verenigings**

**25.** (1) Die raad moet, binne 90 dae vanaf die datum van sy eerste vergadering, 'n raamwerk vir die vereistes vir erkenning van 'n vrywillige vereniging aan die RBO vir goedkeuring voorlê.

(2) Enige vrywillige vereniging kan by die raad aansoek doen om erkenning as sodanig.

(3) Die raad kan, indien die vrywillige vereniging aan die vereistes wat ingevolge artikel 14*(d)*, bepaal is, voldoen, daardie vereniging erken en daaraan 'n sertifikaat van erkenning uitreik.

(4) 'n Sertifikaat van erkenning is geldig vir 'n tydperk van vyf jaar vanaf die datum van uitreiking.

(5) 'n Vrywillige vereniging moet sy sertifikaat van erkenning op 'n opvallende plek by sy hoofkantoor vertoon.

(6) Die erkenning van 'n vrywillige vereniging verstryk—

*(a)* indien daardie vereniging nie meer aan die vereistes in artikel 14*(d)* beoog, voldoen nie; of

*(b)* by die verstryking van die tydperk van vyf jaar in subartikel (4) bedoel.

(7) 'n Vrywillige vereniging moet, minstens drie maande voor die verstryking van sy erkenning op die voorgeskrewe wyse by die raad aansoek doen om die hernuwing daarvan.

(8) 'n Vrywillige vereniging waarvan die erkenning verstryk het, moet binne 30 dae van die datum waarop die raad dit skriftelik gelas, die sertifikaat van erkenning terugbesorg.

**Identifisering van werk**

**26.** (1) Die raad moet oorleg pleeg met—

*(a)* alle vrywillige verenigings;

*(b)* enige persoon;

*(c)* enige liggaam; of

*(d)* enige bedryf,

wat moontlik geraak word deur enige wette wat die bou-omgewingprofessies reguleer met betrekking tot die identifisering van die soort landskapsargitektuur werk wat deur persone wat in enige van die kategorieë in artikel 18 bedoel, geregistreer is, verrig kan word, met inbegrip van werk wat moontlik ressorteer binne die trefwydte van enige ander professie wat deur die professies se Wette in die Wet op die Raad vir die Bou-omgewing, 2000, bedoel, gereguleer word.

(2) Na die oorlegplegingsproses moet die raad aanbevelings aan die RBO voorlê met betrekking tot werk ingevolge subartikel (1) geïdentifiseer, vir die RBO se oorweging en identifisering ingevolge artikel 20 van die Wet op die Raad vir die Bou-omgewing, 2000.

(3) 'n Persoon wat nie ingevolge hierdie Wet geregistreer is nie, mag nie—

*(a)* enige soort werk wat vir enige kategorie geregistreerde persone geïdentifiseer is, verrig nie;

*(b)* voorgee dat hy of sy 'n persoon is, of hom of haar op enige wyse uitgee of toelaat dat hy of sy uitgegee word as 'n persoon, wat ingevolge hierdie Wet geregistreer is nie;

*(c)* die naam van enige geregistreerde persoon of enige naam of titel in artikel 18 of 21 bedoel, gebruik nie; of

*(d)* 'n handeling verrig wat daarop dui, of bereken is om persone te laat aflei, dat hy of sy ingevolge hierdie Wet geregistreer is nie.

(4) Subartikel (3)*(a)* mag nie uitgelê word nie as sou dit enige persoon verbied om werk ingevolge hierdie artikel geïdentifiseer, te verrig indien sodanige werk in diens van of in opdrag van en onder die leiding, beheer of toesig van of in 'n formele verbintenis met 'n geregistreerde persoon verrig word wat daarop geregtig is om die geïdentifiseerde werk te verrig en wat aanspreeklikheid vir enige werk wat aldus verrig word, moet aanvaar.

**Professional conduct**

**27.** (1) The council must, in consultation with the CBE, voluntary associations and registered persons, draw up a code of conduct for registered persons.

(2) *(a)* The council is responsible for administering the code of conduct and must ensure that the code is available to all members of the public at all reasonable times.

*(b)* The council must provide the CBE with a copy of the code of conduct.

(3) All registered persons must comply with the code of conduct and failure to do so constitutes improper conduct.

**Investigation of charge of improper conduct**

**28.** (1) The council must refer any matter brought against a registered person to an investigating committee contemplated in section 17 if—

*(a)* the council has reasonable grounds to suspect that a registered person has committed an act which may render him or her guilty of improper conduct; or

*(b)* a complaint, charge or allegation of improper conduct has been brought against a registered person by any person.

(2) At the request of the council, the investigating committee must—

*(a)* investigate the matter; and

*(b)* obtain evidence to determine whether or not in its opinion the registered person concerned may be charged and, if so, recommend to the council the charge or charges that may be preferred against that registered person.

(3) An investigating committee may not question the registered person concerned unless the investigating committee informs that registered person that he or she—

*(a)* has the right to be assisted or represented by another person; and

*(b)* is not obliged to make any statement and that any statement so made may be used in evidence against the registered person.

(4) The investigating committee must, after the conclusion of the investigation, submit a report making its recommendations to the council regarding any matter referred to it in terms of this section.

**Charge of improper conduct**

**29.** (1) The council must, after considering a report of the investigating committee in terms of section 28(2)*(b)* and (4), charge a registered person with improper conduct if the council is convinced that sufficient grounds exist for a charge to be preferred against such a registered person.

(2) The council must furnish a charge sheet to the registered person concerned by hand or registered mail.

(3) A charge sheet must inform the registered person charged—

*(a)* of the details and nature of the charge;

*(b)* that he or she must, in writing, admit or deny the charge;

*(c)* that he or she may, together with the admission or denial, submit a written explanation regarding the improper conduct with which he or she is charged; and

*(d)* of the period, which must be reasonable, within which his or her plea in terms of paragraph *(b)* must be submitted to the council.

(4) *(a)* If a registered person charged admits that he or she is guilty of the charge, he or she is considered to have been found guilty of improper conduct as charged, after he or she has explained his or her conduct.

*(b)* The council may, subject to section 32(2), impose a penalty contemplated in section 32(3)*(a)* or *(b)* on a registered person who has admitted guilt in terms of paragraph *(a)*.

(5) The acquittal or the conviction of a registered person by a court of law on a criminal charge is not a bar to proceedings against him or her under this Act on a charge of improper conduct, even if the facts stated in the charge of improper conduct would, if proved, constitute the offence stated in the criminal charge on which he or she was acquitted or convicted or any other offence of which he or she might have been acquitted or convicted at his or her trial on the criminal charge.

**Professionele gedrag**

**27.** (1) Die raad moet, in oorleg met die RBO, vrywillige verenigings en geregistreerde persone, 'n gedragskode vir geregistreerde persone opstel.

(2) *(a)* Die raad is verantwoordelik om die gedragskode te administreer en moet toesien dat die kode te alle redelike tye aan alle lede van die publiek beskikbaar is.

*(b)* Die raad moet 'n eksemplaar van die gedragskode aan die RBO voorsien.

(3) Alle geregistreerde persone moet aan die gedragskode voldoen, en versuim om dit te doen, maak onbehoorlike gedrag uit.

**Ondersoek van aanklag van onbehoorlike gedrag**

**28.** (1) Die raad moet enige aangeleenteid wat teen 'n geregistreerde persoon ingebring is na 'n komitee van ondersoek beoog in artikel 17 verwys indien—

*(a)* die raad redelike gronde het om te vermoed dat 'n geregistreerde persoon 'n handeling verrig het wat hom of haar blootstel aan 'n skuldigbevinding aan onbehoorlike gedrag; of

*(b)* 'n klagte, aanklag of bewering van onbehoorlike gedrag deur enige persoon teen 'n geregistreerde persoon ingedien word.

(2) Die komitee van ondersoek moet, op versoek van die raad—

*(a)* die saak ondersoek; en

*(b)* getuienis verkry om te bepaal of die betrokke geregistreerde persoon na sy mening aangekla kan word al dan nie, en indien wel, 'n aanbeveling aan die raad doen oor welke aanklag of aanklagte teen daardie geregistreerde persoon aanhangig gemaak kan word.

(3) 'n Komitee van ondersoek mag nie die betrokke geregistreerde persoon ondervra nie tensy die komitee van ondersoek daardie geregistreerde persoon inlig dat hy of sy—

*(a)* die reg het om bygestaan of verteenwoordig te word deur 'n ander persoon; en

*(b)* nie 'n verklaring hoef af te lê nie en dat enige verklaring aldus afgelê, gebruik kan word as getuienis teen die geregistreerde persoon.

(4) Die komitee van ondersoek moet na die afsluiting van die ondersoek, 'n verslag aan die raad voorlê wat sy aanbevelings met betrekking tot enige aangeleentheid wat ingevolge hierdie artikel na die komitee verwys is, bevat.

**Aanklag van onbehoorlike gedrag**

**29.** (1) Die raad moet, na oorweging van 'n verslag van die komitee van ondersoek ingevolge artikel 28(2)*(b)* en (4), indien die raad oortuig is dat daar voldoende gronde vir die indiening van 'n aanklag teen 'n geregistreerde persoon bestaan, daardie geregistreerde persoon van onbehoorlike gedrag aankla.

(2) Die raad moet per hand of geregistreerde pos 'n klagstaat aan die betrokke geregistreerde persoon verskaf.

(3) 'n Klagstaat moet die geregistreerde persoon wat aangekla is, inlig—

*(a)* oor die besonderhede en aard van die aanklag;

*(b)* dat hy of sy die aanklag skriftelik moet erken of ontken;

*(c)* dat hy of sy saam met die erkenning of ontkenning 'n skriftelike verduideliking met betrekking tot die onbehoorlike gedrag waarvan hy of sy aangekla word, kan indien; en

*(d)* oor die tydperk, wat redelik moet wees, waarbinne sy of haar pleit ingevolge paragraaf *(b)* by die raad ingedien moet word.

(4) *(a)* Indien 'n geregistreerde persoon wat aangekla is, skuld op die aanklag erken, word hy of sy geag skuldig bevind te wees aan die onbehoorlike gedrag waarvan hy of sy aangekla is, nadat hy of sy, sy of haar gedrag verduidelik het.

*(b)* Die raad kan, behoudens artikel 32(2), 'n straf in artikel 32(3)*(a)* of *(b)* beoog, aan 'n geregistreerde persoon wat ingevolge paragraaf *(a)* skuld erken het, oplê.

(5) Die vryspraak of die skuldigbevinding van 'n geregistreerde persoon deur 'n geregshof op 'n kriminele aanklag, verhoed nie dat stappe kragtens hierdie Wet op 'n aanklag van onbehoorlike gedrag teen hom of haar ingestel word nie, selfs al sou die feite uiteengesit in die aanklag van onbehoorlike gedrag, indien dit bewys sou word, die misdryf uitmaak wat uiteengesit is in die kriminele aanklag waarop hy of sy vrygespreek of skuldig bevind is of 'n ander misdryf waarop of waaraan hy of sy by sy of haar verhoor ten opsigte van die kriminele aanklag vrygespreek of skuldig bevind kon gewees het.

**Appointment of disciplinary tribunal**

**30.** (1) The council must appoint a disciplinary tribunal to hear a charge of improper conduct if a person charged—

*(a)* denies the charge; or

*(b)* fails to comply with section 29(3)*(b)*.

(2) The disciplinary tribunal must consist of at least—

*(a)* a person who specialises in the professional field concerning the charge;

*(b)* a professional who has appropriate experience; and

*(c)* a person qualified in law and who has appropriate experience.

**Disciplinary hearing**

**31.** (1) The disciplinary hearing must be conducted by the disciplinary tribunal.

(2) The disciplinary tribunal may, for the purposes of this section, appoint a person to assist it in the performance of its functions.

(3) *(a)* The disciplinary tribunal may, for the purposes of a hearing, subpoena any person—

(i) who in its opinion may be able to give material information concerning the subject of the hearing; or

(ii) who it suspects or believes has in his or her possession or custody or under his or her control any book, document or object which has any bearing on the subject of the hearing,

to appear before the disciplinary tribunal at the time and place specified in the subpoena, to be questioned or to produce a book, document or object.

*(b)* A subpoena issued in terms of paragraph *(a)*, must—

(i) be in the prescribed form;

(ii) be signed by the chairperson of the disciplinary tribunal or, in his or her absence, any member of the disciplinary tribunal; and

(iii) be served on the registered person concerned personally or by sending it by registered mail.

(4) The disciplinary tribunal may retain a book, document or object produced in terms of subsection (3) for the duration of the hearing.

(5) The chairperson of the disciplinary tribunal may call upon and administer an oath to, or take an affirmation from, any witness at the hearing who was subpoenaed in terms of subsection (3).

(6) At a hearing the registered person charged—

*(a)* (i) may personally be present at the hearing of the proceedings;

(ii) may be assisted or represented by another person in conducting the proceedings;

(iii) has the right to be heard;

(iv) may call witnesses;

(v) may cross-examine any person called as a witness in support of the charge; and

(vi) may have access to documents produced in evidence;

*(b)* (i) may admit at any time before conviction that he or she is guilty of the charge despite the fact that he or she denied the charge or failed to react in terms of section 29(3)*(b)* or *(c)*;

(ii) may, in the case where he or she makes an admission in terms of subparagraph (i), be deemed to be guilty of improper conduct as charged.

(7) The person referred to in subsection (2) may during a hearing—

*(a)* lead evidence and advance arguments in support of the charge and cross-examine witnesses;

*(b)* question any person who was subpoenaed in terms of subsection (3); or

*(c)* call anyone to give evidence or to produce any book, document or object in his or her possession or custody or under his or her control which the person referred to in subsection (2) suspects or believes to have a bearing on the subject of the hearing.

(8) *(a)* A witness who has been subpoenaed may not—

**Aanstelling van dissiplinêre tribunaal**

**30.** (1) Indien 'n aangeklaagde persoon—

*(a)* die aanklag ontken; of

*(b)* versuim om te voldoen aan artikel 29(3)*(b)*,

moet die raad 'n dissiplinêre tribunaal aanstel om 'n aanklag van onbehoorlike gedrag aan te hoor.

(2) Die dissiplinêre tribunaal moet bestaan uit minstens—

*(a)* 'n persoon wat spesialiseer op die professionele gebied rakende die aanklag;

*(b)* 'n professionele persoon met toepaslike ondervinding; en

*(c)* 'n persoon wat in die regte gekwalifiseer is met toepaslike ondervinding.

**Dissiplinêre verhoor**

**31.** (1) Die dissiplinêre verhoor moet deur die dissiplinêre tribunaal gehanteer word.

(2) Die dissiplinêre tribunaal kan, vir die doeleindes van hierdie artikel, 'n persoon aanstel om hom met die verrigting van sy werksaamhede te help.

(3) *(a)* Die dissiplinêre tribunaal kan vir die doeleindes van 'n verhoor 'n persoon dagvaar—

(i) wat na sy mening in staat is om inligting van wesenlike belang oor die onderwerp van die verhoor te verstrek; of

(ii) van wie die tribunaal vermoed of glo dat hy of sy 'n boek, dokument of voorwerp in sy of haar besit of bewaring of onder sy of haar beheer het wat betrekking op die onderwerp van die verhoor het,

om op die tyd en plek in die dagvaarding vermeld voor die dissiplinêre tribunaal te verskyn om ondervra te word of om 'n boek, dokument of voorwerp voor te lê.

*(b)* 'n Dagvaarding wat ingevolge paragraaf *(a)* uitgereik is, moet—

(i) in die voorgeskrewe vorm wees;

(ii) deur die voorsitter van die dissiplinêre tribunaal of, in sy of haar afwesigheid, deur enige lid van die dissiplinêre tribunaal onderteken wees; en

(iii) persoonlik of per geregistreerde pos aan die betrokke geregistreerde persoon beteken word.

(4) Die dissiplinêre tribunaal kan 'n boek, dokument of voorwerp ingevolge subartikel (3) voorgelê vir die duur van die verhoor hou.

(5) Die voorsitter van die dissiplinêre tribunaal kan enige getuie by die verhoor wat ingevolge subartikel (3) gedagvaar is, roep en hom of haar 'n eed oplê of 'n bevestiging van hom of haar afneem.

(6) By 'n verhoor van 'n geregistreerde persoon wat aangekla is—

*(a)* kan hy of sy—

(i) persoonlik teenwoordig wees by die verhoor se verrigtinge;

(ii) deur 'n ander persoon bygestaan of verteenwoordig word tydens die verrigtinge;

(iii) aangehoor word;

(iv) getuies roep;

(v) iemand wat as getuie geroep is ter stawing van die aanklag, onder kruisverhoor neem; en

(vi) insae hê in stukke wat as getuienis voorgelê is; en

*(b)* (i) kan hy of sy, ondanks die feit dat hy of sy die aanklag ontken het of versuim het om te reageer ingevolge artikel 29(3)*(b)* of *(c)*, te eniger tyd voor vonnisoplegging skuld op die aanklag erken;

(ii) in die geval waar hy of sy 'n erkenning ingevolge subparagraaf (i) maak, kan hy of sy geag word skuldig te wees aan die onbehoorlike gedrag waarvan hy of sy aangekla is.

(7) Die persoon in subartikel (2) beoog, kan tydens 'n verhoor—

*(a)* getuienis en argumente ter stawing van die aanklag aanvoer en getuies onder kruisverhoor neem;

*(b)* 'n persoon wat ingevolge subartikel (3) gedagvaar is, ondervra; of

*(c)* enige persoon roep om getuienis te lewer of aansê om 'n boek, dokument of voorwerp in sy of haar besit of bewaring of onder sy of haar beheer wat die persoon in subartikel (2) beoog, vermoed of glo betrekking op die onderwerp van die verhoor het, voor te lê.

(8) *(a)* 'n Getuie wat gedagvaar is, mag nie—

(i) without sufficient cause, fail to attend the hearing at the time and place specified in the subpoena;
(ii) refuse to be sworn in or to be affirmed as a witness;
(iii) without sufficient cause, fail to answer fully and satisfactorily to the best of his or her knowledge to all questions lawfully put to him or her; or
(iv) fail to produce any book, document or object in his or her possession or custody or under his or her control which he or she has been required to produce.

*(b)* A witness who has been subpoenaed must remain in attendance until excused by the chairperson of the disciplinary tribunal from further attendance.

*(c)* A witness who has been subpoenaed may request that the names of the members of the disciplinary tribunal be made available to him or her.

*(d)* The law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce a book, document or object in a civil trial before a court of law may, with the necessary changes, apply in relation to the examination of, or the production of any book, document or object to the disciplinary tribunal by, any person called in terms of this section as a witness.

*(e)* A witness may not, after having been sworn in or having been affirmed as a witness, give a false statement on any matter, knowing that answer or statement to be false.

*(f)* A person may not prevent another person from complying with a subpoena or from giving evidence or producing a book, document or object which he or she is in terms of this section required to give or produce.

(9) The record of evidence which has a bearing on the charge before the disciplinary tribunal, and which was presented before any commission which investigated an event or conduct is admissible without further evidence being led if—
*(a)* the record is accompanied by a certificate from the chairperson; and
*(b)* the certificate certifies that the investigation was lawful, reasonable and procedurally fair.

(10) If the improper conduct with which the registered person is charged amounts to an offence of which he or she has been convicted by a court of law, a certified copy of the record of his or her trial and conviction by that court is, on the identification of the registered person as the person referred to in the record, sufficient proof of the commission by him or her of that offence, unless the conviction has been set aside by a superior court.

**Proceedings after hearing**

**32.** (1) After the conclusion of the hearing the disciplinary tribunal must, within 30 days—
*(a)* decide whether or not the registered person charged is guilty of improper conduct;
*(b)* if the disciplinary tribunal finds that the registered person charged is guilty of improper conduct, take cognisance of any aggravating or mitigating circumstances;
*(c)* inform the registered person charged and the council of the finding; and
*(d)* inform the registered person of his or her right of appeal in terms of section 33.

(2) A registered person found guilty of improper conduct in terms of this section may—
*(a)* address the disciplinary tribunal in mitigation of sentence; and
*(b)* call witnesses to give evidence on his or her behalf in mitigation of the sentence.

(3) *(a)* If the registered person charged is found guilty of improper conduct, or if he or she admits that he or she is guilty of the charge, the disciplinary tribunal must either—
(i) caution or reprimand the registered person;
(ii) impose on him or her a fine not exceeding the amount calculated according to the ratio for one year imprisonment determined in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991);

(i) sonder voldoende rede versuim om op die tyd en plek in die dagvaarding vermeld, die verhoor by te woon nie;

(ii) weier om as getuie beëdig te word of dat 'n bevestiging van hom of haar afgeneem word nie;

(iii) sonder voldoende rede versuim om volledig en bevredigend na sy of haar beste wete alle vrae wat wettig aan hom of haar gestel word, te beantwoord nie; of

(iv) versuim om 'n boek, dokument of voorwerp in sy of haar besit of bewaring of onder sy of haar beheer voor te lê wat hy of sy aangesê is om voor te lê nie.

*(b)* 'n Getuie wat gedagvaar is, moet teenwoordig bly totdat hy of sy deur die voorsitter van die dissiplinêre tribunaal van verdere bywoning onthef word.

*(c)* 'n Getuie wat gedagvaar is, kan versoek dat die name van die lede van die dissiplinêre tribunaal aan hom of haar beskikbaar gestel word.

*(d)* Die regsbepalings met betrekking tot privilegie, soos van toepassing op 'n getuie wat gedagvaar is om in 'n siviele verhoor in 'n geregshof getuienis af te lê of 'n boek, dokument of voorwerp voor te lê, is met die nodige veranderings van toepassing in verband met die ondervraging van, of voorlegging van 'n boek, dokument of voorwerp aan die dissiplinêre tribunaal deur iemand wat ingevolge hierdie artikel as getuie geroep is.

*(e)* 'n Getuie mag nie, nadat hy of sy as getuie beëdig is of 'n bevestiging gedoen het, 'n valse verklaring aflê oor enige aangeleentheid met die wete dat daardie antwoord of verklaring vals is nie.

*(f)* 'n Persoon mag nie 'n ander persoon verhinder om aan 'n dagvaarding te voldoen of om getuienis af te lê of om 'n boek, dokument of voorwerp voor te lê wat hy of sy ingevolge hierdie artikel aangesê word om af te lê of voor te lê nie.

(9) Die oorkonde van getuienis afgelê voor enige kommissie wat 'n gebeurtenis of gedrag ondersoek het wat betrekking het op die aanklag voor die dissiplinêre tribunaal, is toelaatbaar sonder dat verdere getuienis gelei hoef te word indien—

*(a)* die oorkonde vergesel gaan van 'n sertifikaat van die voorsitter; en

*(b)* die sertifikaat sertifiseer dat die ondersoek wettig, billik en prosedureel billik was.

(10) Indien die onbehoorlike waaraan gedrag waarvan die geregistreerde persoon aangekla word op 'n misdryf neerkom waaraan hy of sy deur 'n geregshof skuldig bevind is, is 'n gesertifiseerde afskrif van die oorkonde van sy of haar verhoor en skuldigbevinding deur daardie hof, by identifisering van die geregistreerde persoon as die persoon bedoel in die oorkonde, afdoende bewys van die pleeg van daardie misdryf deur hom of haar, tensy die skuldigbevinding deur 'n hoër hof tersyde gestel is.

**Verrigtinge na verhoor**

**32.** (1) Na afloop van die verhoor moet die dissiplinêre tribunaal, binne 30 dae—

*(a)* besluit of die geregistreerde persoon wat aangekla is, skuldig is aan onbehoorlike gedrag, al dan nie;

*(b)* indien die dissiplinêre tribunaal die geregistreerde persoon wat aangekla is, skuldig bevind aan onbehoorlike gedrag, kennis neem van enige verswarende of versagtende omstandighede;

*(c)* die geregistreerde persoon wat aangekla is en die raad van die bevinding in kennis stel; en

*(d)* die geregistreerde persoon van sy of haar reg op appèl ingevolge artikel 33 in kennis stel.

(2) 'n Geregistreerde persoon wat ingevolge hierdie artikel aan onbehoorlike gedrag skuldig bevind word, kan—

*(a)* die dissiplinêre tribunaal toespreek ter versagting van straf; en

*(b)* getuies roep om ten behoewe van hom of haar getuienis te lewer ter versagting van die straf.

(3) *(a)* Indien die geregistreerde persoon wat aangekla is, skuldig bevind word aan onbehoorlike gedrag of indien hy of sy erken dat hy of sy skuldig is aan die aanklag, moet die dissiplinêre tribunaal óf—

(i) die geregistreerde persoon waarsku of berispe;

(ii) hom of haar 'n boete oplê wat nie die bedrag bereken in ooreenstemming met die verhouding tot een jaar gevangenisstraf wat ingevolge die Wet op die Aanpassing van Boetes, 1991 (Wet No. 101 van 1991), bepaal is, oorskry nie;

(iii) suspend the registration of the registered person concerned for a period not exceeding one year; or

(iv) cancel the registration of the registered person concerned and remove his or her name from the register referred to in section 11*(c)*.

*(b)* The disciplinary tribunal may take decisions under more than one of the subparagraphs of paragraph *(a)*.

(4) At the conclusion of the hearing the disciplinary tribunal must notify the council of its finding.

(5) The council must publish the finding and the sanction imposed in terms of subsection (3) in the *Gazette*.

(6) The council must give effect to the decision of the disciplinary tribunal.

**Appeal against decision of disciplinary tribunal**

**33.** (1) *(a)* A registered person found guilty of improper conduct may appeal to the council against a finding of the disciplinary tribunal or against the sentence, or both.

*(b)* The appeal must be lodged, within 30 days after the disciplinary tribunal has informed the registered person of its decision.

(2) The council may—

*(a)* dismiss the appeal against the decision of the disciplinary tribunal and confirm the finding or sentence or both; or

*(b)* uphold the appeal against the decision of the disciplinary tribunal wholly or in part and set aside or vary the finding or sentence or both.

(3) If an appeal is dismissed in terms of subsection (2)*(a)* the appellant may, within 30 days from the date of the dismissal of the appeal, appeal to the CBE.

(4) If a registered person found guilty of improper conduct lodges an appeal in terms of subsection (1)—

*(a)* the decision of the disciplinary tribunal under section 32(3); or

*(b)* the publication by the council in terms of section 32(5),

may not be put into effect before the council or the CBE, or both, has decided the appeal.

(5) *(a)* The appellant whose appeal was dismissed by the CBE may appeal to the appropriate High Court.

*(b)* A person referred to in paragraph *(a)* must, after giving notice to the CBE, lodge a notice of appeal with the registrar of the appropriate High Court within one month from the date of the decision of the CBE.

(6) *(a)* The council may appeal to the appropriate High Court against any decision of the CBE with regard to disciplinary matters.

*(b)* The council must, after giving notice to the CBE, lodge a notice of appeal with the registrar of the appropriate High Court within one month from the date of the decision of the CBE.

**Professional fees**

**34.** (1) The council must, in consultation with the voluntary associations, formulate recommendations with regard to the principles referred to in section 4*(k)*(v) of the Council for the Built Environment Act, 2000.

(2) The council must annually, after consultation with the voluntary associations, determine guideline professional fees and publish those fees in the *Gazette*.

(3) The CBE may review the guideline professional fees published by the council, and refer the fees back to the council for reconsideration.

(4) If the council, after review by the CBE of the guideline professional fees, is aggrieved about that review, it may refer the matter to the Minister for a final decision.

(5) Any person who is aggrieved by the guideline professional fees published in terms of subsection (2), may bring the matter to the attention of the CBE within 60 days from such publication.

**Appeal against certain decisions of council**

**35.** (1) Any member of the public whose interests and rights are affected by a decision made by the council may—

(iii) die registrasie van die betrokke geregistreerde persoon opskort vir 'n tydperk wat nie een jaar oorskry nie; of

(iv) die registrasie van die betrokke geregistreerde persoon kanselleer en sy of haar naam van die register bedoel in artikel 11*(c)* verwyder.

*(b)* Die dissiplinêre tribunaal kan besluite neem kragtens meer as een van die subparagrawe van paragraaf *(a)*.

(4) Na afloop van die verhoor moet die dissiplinêre tribunaal die raad van sy bevinding in kennis stel.

(5) Die raad moet die bevinding en die sanksie ingevolge subartikel (3) opgelê, in die *Staatskoerant* publiseer.

(6) Die raad moet gevolg gee aan die besluit van die dissiplinêre tribunaal.

**Appèl teen besluit van dissiplinêre tribunaal**

**33.** (1) *(a)* 'n Geregistreerde persoon wat skuldig bevind is aan onbehoorlike gedrag kan na die raad appelleer teen 'n bevinding van die dissiplinêre tribunaal of teen die vonnis of teen beide.

*(b)* Die appèl moet binne 30 dae nadat die dissiplinêre tribunaal die geregistreerde persoon van sy besluit in kennis gestel het, aangeteken word.

(2) Die raad kan—

*(a)* die appèl teen die besluit van die dissiplinêre tribunaal verwerp en die bevinding of vonnis of beide bevestig; of

*(b)* die appèl teen die besluit van die dissiplinêre tribunaal geheel of gedeeltelik handhaaf en die bevinding of vonnis of beide tersyde stel of wysig.

(3) Indien 'n appèl ingevolge subartikel (2)*(a)* verwerp word, kan die appellant binne 30 dae vanaf die datum dat die appèl verwerp is na die RBO appelleer.

(4) Indien 'n geregistreerde persoon wat skuldig bevind is aan onbehoorlike gedrag ingevolge subartikel (1) appèl aanteken, mag—

*(a)* die besluit van die dissiplinêre tribunaal kragtens artikel 32(3); of

*(b)* die publikasie deur die raad ingevolge artikel 32(5),

nie geïmplementeer word nie, alvorens die raad of die RBO, of beide, oor die appèl beslis het nie.

(5) *(a)* Die appellant wie se appèl deur die RBO verwerp is, kan na die toepaslike Hoë Hof appelleer.

*(b)* 'n Persoon bedoel in paragraaf *(a)* moet, na kennisgewing aan die RBO, binne een maand vanaf die datum van die beslissing van die RBO, kennisgewing van appèl by die griffier van die toepaslike Hoë Hof aanteken.

(6) *(a)* Die raad kan na die toepaslike Hoë Hof appelleer teen enige beslissing van die RBO met betrekking tot dissiplinêre aangeleenthede.

*(b)* Die raad moet, na kennisgewing aan die RBO, binne een maand vanaf die datum van die beslissing van die RBO, kennisgewing van appèl by die griffier van die toepaslike Hoë Hof aanteken.

**Professionele gelde**

**34.** (1) Die raad moet, in oorleg met die vrywillige verenigings, aanbevelings rakende die beginsels bedoel in artikel 4*(k)*(v) van die Wet op die Raad vir die Bou-omgewing, 2000, formuleer.

(2) Die raad moet jaarliks, na oorleg met die vrywillige verenigings, riglyn-professionele gelde bepaal en daardie gelde in die *Staatskoerant* publiseer.

(3) Die RBO mag die riglyn- professionele gelde wat deur die raad gepubliseer is, hersien en die gelde na die raad terugverwys vir heroorweging.

(4) Indien die raad, na hersiening van die riglyn- professionele gelde deur die RBO, gegrief is deur daardie hersiening, kan die raad die aangeleentheid na die Minister vir 'n finale besluit verwys.

(5) Enige persoon wat deur die riglyn- professionele gelde wat ingevolge subartikel (2) gepubliseer is, gegrief is, kan die aangeleentheid onder die aandag van die RBO bring binne 60 dae vanaf sodanige publikasie.

**Appèl teen sekere besluite van raad**

**35.** (1) Enige lid van die publiek wie se belange en regte geraak word deur 'n besluit wat die raad geneem het, kan—

*(a)* within 30 days from that person becoming aware of the decision, request the council in writing to furnish him or her in writing with its reasons for that decision;

*(b)* within 90 days from the date on which the council furnished him or her with its reasons for that decision and after giving notice to the council, appeal to the CBE against that decision in terms of section 21 of the Council for the Built Environment Act, 2000.

(2) A person referred to in subsection (1) may, after giving notice to the council or the CBE, as the case may be, lodge a notice of appeal with the registrar of the appropriate High Court within one month from the date of the decision of the council or the CBE.

**Rules**

**36.** (1) The council may, by notice in the *Gazette*, make rules with regard to any matter that is required or permitted to be prescribed in terms of this Act and any other matter for the better execution of this Act or in relation to any power granted or duty imposed by this Act.

(2) *(a)* Before the council makes any rule under this section, it must publish a draft of the proposed rule in the *Gazette* together with a notice calling on interested persons to comment in writing within a period stated in the notice, but the period may not be less than 30 days from the date of publication of the notice.

*(b)* If the council alters the draft rules as a result of any comment it need not publish those alterations before making the rule.

(3) The council may, if circumstances necessitate the immediate publication of a rule, publish that rule without consultation as contemplated in subsection (2), provided that the CBE, any of the councils for the professions or any person who is aggrieved by the said rule may—

*(a)* comment after such publication; or

*(b)* appeal to the CBE or the appropriate High Court, as the case may be, against such a rule.

**Procedure and evidence for evidential purposes**

**37.** (1) The register referred to in section 11*(c)* serves as evidence of all matters which, in terms of this Act, are required or permitted to be noted therein.

(2) A certificate purporting to be signed by the registrar to the effect that an entry has or has not been made in the register or that any other function authorised by this Act to be performed, has or has not been performed, is evidence of the matters specified in that certificate.

(3) A copy of an entry in the register or of a document in the custody of the registrar, or an extract from the register or from any such document, purporting to be certified by the registrar, may be admitted as evidence in all courts without further proof or production of the original.

**Rectification of errors and exemptions**

**38.** (1) When anything which according to this Act is required to be done or performed on or before a specified day or at a specified time or during a specified period, has not been done or performed, the Minister may, if satisfied that the failure was due to error or oversight, authorise it to be done or performed on or before another day, time, or during another period and anything done or performed in this regard is of full force and is deemed to have been lawfully done or performed in accordance with this Act.

(2) The Minister must, after consultation with the council, voluntary associations and any other person he or she considers necessary, make rules regarding exemptions from the provisions of this Act.

(3) *(a)* The Minister may, after consultation with the council, voluntary associations and any other person he or she considers necessary, exempt any person, council, voluntary association or industry from any provision of this Act for a period not exceeding two years.

*(b)* The exemption referred to in paragraph *(a)* must comply with the rules contemplated in subsection (2).

*(a)* binne 30 dae nadat daardie persoon bewus geword het van die besluit, die raad skriftelik versoek om sy redes vir daardie besluit skriftelik aan hom of haar te verstrek;

*(b)* binne 90 dae vanaf die datum waarop die raad aan hom of haar die redes vir daardie besluit verstrek het en na kennisgewing aan die raad, ingevolge artikel 21 van die Wet op die Raad vir die Bou-omgewing, 2000, na die RBO teen daardie besluit appelleer.

(2) 'n Persoon in subartikel (1) bedoel kan, na kennisgewing aan die raad of die RBO, na gelang van die geval, binne een maand na die datum van die besluit van die raad of die RBO, kennisgewing van appèl by die griffier van die toepaslike Hoë Hof aanteken.

**Reëls**

**36.** (1) Die raad kan, by kennisgewing in die *Staatskoerant*, reëls uitvaardig met betrekking tot enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf moet of kan word en enige ander aangeleentheid wat die uitvoering van hierdie Wet verbeter of in verband met enige bevoegdheid verleen of plig opgelê deur hierdie Wet.

(2) *(a)* Voor die raad kragtens hierdie artikel 'n reël uitvaardig, moet hy 'n konsep van die voorgestelde reël in die *Staatskoerant* publiseer saam met 'n kennisgewing wat 'n beroep doen op belanghebbende persone om skriftelik kommentaar te lewer binne 'n tydperk in die kennisgewing vermeld, maar die tydperk mag nie minder wees nie as 30 dae vanaf die datum van publikasie van die kennisgewing.

*(b)* Indien die raad die konsepreëls wysig as gevolg van enige kommentaar hoef die raad nie daardie wysigings te publiseer voordat die reël uitgevaardig word nie.

(3) Die raad kan, indien die omstandighede die onmiddellike publikasie van 'n reël noodsaak, daardie reël publiseer sonder oorlegpleging soos in subartikel (2) beoog, op voorwaarde dat die RBO, enige van die rade vir die professies of enige persoon wat deur die reël gegrief is—

*(a)* kommentaar kan lewer na sodanige publikasie; of

*(b)* na die RBO of die toepaslike Hoë Hof, na gelang van die geval, teen so 'n reël kan appelleer.

**Prosedure en bewyslewering vir bewysgewende doeleindes**

**37.** (1) Die register bedoel in artikel 11*(c)* dien as bewys van alle aangeleenthede wat ingevolge hierdie Wet daarin aangeteken moet of kan word.

(2) 'n Sertifikaat wat deur die registrateur onderteken heet te wees ten effekte dat 'n inskrywing wel in die register gemaak is of nie gemaak is nie of dat enige ander funksie wat volgens hierdie Wet verrig kan word, wel verrig is of nie verrig is nie, is bewys van die aangeleenthede in daardie sertifikaat vermeld.

(3) 'n Afskrif van 'n inskrywing in die register of van 'n dokument deur die registrateur bewaar of 'n uittreksel uit die register of uit so 'n dokument wat deur die registrateur gesertifiseer heet te wees, kan sonder verdere bewys of voorlegging van die oorspronklike in alle howe as getuienis toegelaat word.

**Regstelling van foute, en vrystellings**

**38.** (1) Waar enigiets wat ooreenkomstig hierdie Wet op of voor 'n vermelde dag of op 'n vermelde tydstip of gedurende 'n vermelde tydperk gedoen of uitgevoer moet word, nie aldus gedoen of uitgevoer is nie, kan die Minister, indien oortuig dat die versuim te wyte was aan 'n fout of vergissing, magtiging daarvoor verleen dat so iets gedoen of uitgevoer kan word op of voor 'n ander dag of tydstip of gedurende 'n ander tydperk, en enigiets aldus gedoen of uitgevoer, is van volle krag en word geag wettig gedoen of uitgevoer te gewees het ooreenkomstig hierdie Wet.

(2) Die Minister moet, na oorlegpleging met die raad, vrywillige verenigings en enige ander persoon wat hy of sy nodig ag, reëls uitvaardig met betrekking tot vrystellings van die bepalings van hierdie Wet.

(3) *(a)* Die Minister kan enige persoon, raad, vrywillige vereniging of bedryf, na oorleg met die raad, vrywillige verenigings en enige ander persoon wat hy of sy nodig ag, vrystel van enige bepaling van hierdie Wet vir 'n tydperk wat nie twee jaar mag oorskry nie.

*(b)* Die vrystelling in paragraaf *(a)* bedoel, moet voldoen aan die reëls in subartikel (2) beoog.

**Liability**

**39.** (1) The council, the registrar, or any member, committee or staff member of the council, is not liable for any act performed in good faith in terms of this Act.

(2) A registered person who, in the public interest—

*(a)* refuses to perform an act;

*(b)* omits to perform an act; or

*(c)* informs the council or other appropriate authority of an act or omission performed by any other person,

which act or omission endangers or is likely to endanger the safety or health of the public or fellow employees, is not liable for that refusal, omission or information.

(3) Any person who was registered in terms of this Act and whose registration was cancelled, is liable for any action taken by him or her while he or she was registered.

**Delegation of powers**

**40.** (1) The Minister may delegate any of his or her powers in terms of this Act, excluding the power to appoint the members of the council, to the Director-General or any other official of the department.

(2) The council may delegate any of its powers in terms of this Act to a committee, a staff member or a member of the council or any other person or body of persons, excluding the power to hear an appeal in terms of sections 24(1) and 33(1)*(a)*.

(3) The registrar may delegate any of his or her powers in terms of this Act, to a member of the staff of the council.

(4) Any delegation under subsection (1), (2) or (3) does not prohibit the exercise of the power or the performance of the duty or function in question by the Minister, council or the registrar.

**Offences and penalties**

**41.** (1) A person contravening section 18(2), 23, 25(8) or 31(8)*(a)*, *(b)*, *(e)* or *(f)* is guilty of an offence.

(2) If the council wilfully or in a grossly negligent manner fails to comply with section 15(8) it is guilty of an offence and liable to a fine calculated according to the ratio determined for a period of five years' imprisonment in terms of the Adjustment of Fines Act, 1991.

(3) A person convicted of an offence in terms of section 18(2) may be liable to a fine equal to double the remuneration received by him or her for work done in contravention of section 18(2) or to a fine equal to the fine calculated according to the ratio determined for three years imprisonment in terms of the Adjustment of Fines Act, 1991.

(4) A person who is convicted of an offence in terms of section 23 or 25(8), may be liable to a fine calculated according to the ratio determined for a period of one month imprisonment in terms of the Adjustment of Fines Act, 1991.

(5) A person who is convicted of an offence in terms of section 31(8)*(a)*, *(b)*, *(e)* or *(f)*, may be liable to a fine equal to the fine calculated according to the ratio determined for three years imprisonment in terms of the Adjustment of Fines Act, 1991.

**Transitional provisions**

**42.** (1) For the purposes of this section, "effective date" means the date of the first meeting of the council.

(2) The Board of Control for Landscape Architects established by section 31B of the Architects' Act, 1970 (Act No. 35 of 1970), continues to exist and may exercise its powers and perform its functions after the commencement of this Act until the effective date.

**Aanspreeklikheid**

**39.** (1) Die raad, die registrateur, of enige lid, komitee of personeellid van die raad, is nie aanspreeklik vir enige handeling te goeder trou ingevolge hierdie Wet verrig nie.

(2) 'n Geregistreerde persoon wat, in die openbare belang—

*(a)* weier om 'n handeling te verrig;

*(b)* versuim om 'n handeling te verrig; of

*(c)* die raad of ander toepaslike owerheid van 'n handeling verrig deur of versuim van 'n ander persoon in kennis stel,

welke handeling of versuim die veiligheid of gesondheid van die publiek of medewerknemers in gevaar stel of waarskynlik in gevaar kan stel, is nie aanspreeklik vir daardie weiering, versuim of inligting nie.

(3) Enige persoon wat ingevolge hierdie Wet geregistreer was en wie se registrasie gekanselleer is, is aanspreeklik vir enige handeling deur hom of haar verrig terwyl hy of sy geregistreer was.

**Delegering van bevoegdhede**

**40.** (1) Die Minister kan aan die Direkteur-generaal of aan 'n ander beampte van die departement enige van sy of haar bevoegdhede ingevolge hierdie Wet, buiten die bevoegdheid om lede van die raad aan te stel, delegeer.

(2) Die raad kan aan 'n komitee, personeellid of lid van die raad of enige ander persoon of liggaam van persone enige van sy bevoegdhede ingevolge hierdie Wet, buiten die bevoegdheid om 'n appèl ingevolge artikels 24(1) en 33(1)*(a)* aan te hoor, delegeer.

(3) Die registrateur kan aan 'n personeellid van die raad enige van sy of haar bevoegdhede ingevolge hierdie Wet delegeer.

(4) Enige delegering kragtens subartikel (1), (2) of (3) verhoed nie die Minister, raad of die registrateur om die betrokke bevoegdheid uit te oefen of plig of werksaamheid te verrig nie.

**Misdrywe en strawwe**

**41.** (1) 'n Persoon wat artikel 18(2), 23, 25(8) of 31(8)*(a)*, *(b)*, *(e)* of *(f)* oortree, is skuldig aan 'n misdryf.

(2) Indien die raad opsetlik of op 'n grof nalatige wyse versuim om aan artikel 15(8) te voldoen, is hy skuldig aan 'n misdryf en aanspreeklik vir 'n boete bereken in ooreenstemming met die verhouding wat ingevolge die Wet op die Aanpassing van Boetes, 1991, vir gevangenisstraf vir 'n tydperk van vyf jaar vasgestel is.

(3) 'n Persoon wat skuldig bevind word aan 'n misdryf ingevolge artikel 18(2), is aanspreeklik vir 'n boete gelykstaande met dubbel die vergoeding wat deur hom of haar ontvang is vir werk in stryd met artikel 18(2) gedoen, of vir 'n boete gelykstaande met die boete bereken in ooreenstemming met die verhouding wat ingevolge die Wet op die Aanpassing van Boetes, 1991, vir gevangenisstraf van 'n tydperk van drie jaar vasgestel is.

(4) 'n Persoon wat skuldig bevind word aan 'n misdryf ingevolge artikel 23 of 25(8), is aanspreeklik vir 'n boete bereken in ooreenstemming met die verhouding wat ingevolge die Wet op die Aanpassing van Boetes, 1991, vir gevangenisstraf van 'n tydperk van een maand bepaal is.

(5) 'n Persoon wat skuldig bevind word aan 'n misdryf ingevolge artikel 31(8)*(a)*, *(b)*, *(e)* of *(f)*, is aanspreeklik vir 'n boete gelykstaande met die boete bereken in ooreenstemming met die verhouding wat ingevolge die Wet op die Aanpassing van Boetes, 1991, vir 'n tydperk van drie jaar gevangenisstraf bepaal is.

**Oorgangsbepalings**

**42.** (1) By die toepassing van hierdie artikel beteken "effektiewe datum" die datum van die eerste vergadering van die raad.

(2) Die Beheerraad vir Landskapsargitekte wat deur artikel 31B van die Wet op Argitekte, 1970 (Wet No. 35 van 1970), ingestel is, bly tot op die effektiewe datum voortbestaan en kan na die inwerkingtreding van hierdie Wet tot op daardie datum sy bevoegdhede uitoefen en werksaamhede verrig.

(3) The Board of Control for Landscape Architects must, within 30 days from the date of commencement of this Act, invite nominations for the first appointment of members in accordance with section 4.

(4) For the purpose of the nominations referred to in section 4 and for the first term of office of the council, the existing voluntary associations within the landscape architectural profession are deemed to be recognised in terms of section 25.

(5) Any person practising as an landscape technologist, landscape technician or landscape assistant as well as a candidate in any of these categories, may continue to practise as such and is deemed to be a registered person until a date determined by the Minister in the *Gazette*.

(6) From the effective date, all rights, obligations, assets and liabilities acquired or incurred by the Board of Control for Landscape Architects in terms of the Architects' Act, 1970, vest in the council and the council is deemed to have acquired or incurred those rights, obligations, assets and liabilities in terms of this Act.

(7) Any act performed, decision taken, or rule made or purported to have been so performed, taken or made in terms of the Architects' Act, 1970, by the Board of Control for Landscape Architects remains valid unless repealed under this Act.

(8) Any notice issued or exemption granted by the Minister in terms of the Architects' Act, 1970, remains valid unless repealed under this Act.

(9) Any person who at the commencement of this Act is registered in terms of a rule contemplated in section 31B(13) of the Architects' Act, 1970, is deemed to be registered in the corresponding category provided for in this Act.

(10) From the effective date, any register maintained in terms of the Architects' Act, 1970, is incorporated in and is considered to form part of a register to be maintained in terms of this Act.

(11) Any action taken in terms of section 24 of the Architects' Act, 1970, which is pending at the commencement date of this Act, must be finalised in terms of that Act.

(12) At the end of the first term of the council 50 per cent of the members of the council may not be reappointed by the Minister.

**Act binding on State**

**43.** This Act binds the State.

**Short title and commencement**

**44.** This Act is called the Landscape Architectural Profession Act, 2000, and commences on a date fixed by the President by Proclamation in the *Gazette*.

(3) Die Beheerraad vir Landskapsargitekte moet binne 30 dae vanaf die datum van inwerkingtreding van hierdie Wet, nominasies vir die eerste aanstelling van lede ooreenkomstig artikel 4, inwin.

(4) Vir die doeleindes van die nominasies in artikel 4 bedoel en vir die eerste ampstermyn van die raad, word die bestaande vrywillige verenigings binne die landskapsargitektuurprofessie geag erken te wees ingevolge artikel 25.

(5) Enige persoon wat praktiseer as 'n landskapstegnoloog, landskapstegnikus of 'n landskapsassistent en 'n kandidaat in enige van daardie kategorieë, kan voortgaan om as sodanig te praktiseer en word geag 'n geregistreerde persoon te wees tot op 'n datum deur die Minister in die *Staatskoerant* bepaal.

(6) Alle regte, verpligtinge, bates en laste wat deur die Beheerraad vir Landskapsargitekte ingevolge die Wet op Argitekte, 1970, bekom of opgeloop is, berus vanaf die effektiewe datum by die raad en die raad word geag daardie regte, verpligtinge, bates en laste ingevolge hierdie Wet te bekom of opgeloop het.

(7) Enige handeling verrig, besluit geneem, of reël uitgevaardig of voorgegee om aldus verrig, geneem of uitgevaardig te gewees het ingevolge die Wet op Argitekte, 1970, deur die Beheerraad vir Landskapsargitekte, bly geldig tensy kragtens hierdie Wet herroep.

(8) Enige kennisgewing uitgevaardig of vrystelling verleen deur die Minister ingevolge die Wet op Argitekte, 1970, bly geldig tensy kragtens hierdie Wet herroep.

(9) Enige persoon wat by die inwerkingtreding van hierdie Wet ingevolge 'n reël beoog in artikel 31B(13) van die Wet op Argitekte, 1970, geregistreer is, word geag in die ooreenstemmende kategorie waarvoor in hierdie Wet voorsiening gemaak is, geregistreer te wees.

(10) Enige register wat ingevolge die Wet op Argitekte, 1970, bygehou word, word vanaf die effektiewe datum geïnkorporeer in en beskou as deel van 'n register wat ingevolge hierdie Wet bygehou moet word.

(11) Enige handeling wat ingevolge artikel 24 van die Wet op Argitekte, 1970, verrig is en wat hangende is op die inwerkingtredingdatum van hierdie Wet, moet ingevolge daardie Wet afgehandel word.

(12) Aan die einde van die eerste termyn van die raad mag die Minister 50 persent van die lede van die raad nie weer aanstel nie.

**Wet bindend op Staat**

**43.** Hierdie Wet bind die Staat.

**Kort titel en inwerkingtreding**

**44.** Hierdie Wet heet die Wet op die Landskapsargitektuurprofessie, 2000, en tree in werking op 'n datum wat die President by proklamasie in die *Staatskoerant* bepaal.

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