

POLICY
on
“Specified Categories”
as contemplated in the Act



Approved by ECSA Council on 26 May 2005

1. BACKGROUND

The Forum for the Regulation of the Professions in the Built Environment, in 1999, developed a policy called “**Policy Document on the Statutory Regulation of the Built Environment Professions**”, which enjoyed the status of a White Paper as a precursor to the Built Environment Legislation promulgated in 2000. The context within which Specified Categories emerged is reflected in the following extracts from that Policy Document:

“ ‘**Specified category**’ means a category created for registered persons, other than professionals or candidates, who has specific training pertaining to a specialized field that has to be regulated.”

“**Inclusivity** should also be promoted by identification and recognition of the various levels of competence in each profession and the registration of applicants at each level. In order to maximize the value of the human resource potential in the professions, it is necessary for the councils to identify each entry level and to specify the requirements for progression from one registration category to the next. The only constraint on progression up the hierarchy of professional competence should be the individual potential and ability to satisfy requirements for registration.”

The Policy Document originally intended to accommodate individual practitioners who could not normally be admitted to the profession via the registration categories expressly catered for in the Act.

However, as the implications of compulsory registration contemplated in the Engineering Profession Act, Act 46 of 2000, (and the accompanying challenges) started to crystallise, it became increasingly clear that the enabling provisions for the establishment of specified categories would be the only available mechanism at present to widen the scope beyond the original intent – without compromising any legal principle.

To this end the definitions and content of this document have been drafted to allow some flexibility for Council to establish categories of registration not necessarily anticipated at first so as to achieve other objectives contained in the Act, but for which no specific enabling provision had been made.

Definitions

1.1 “**Specified category**” means a category of registration created for persons who must be licensed through the Engineering Profession Act or a combination of the Engineering Profession Act and external legislation as having specific competencies related to an identified need to protect the public safety, health and interest or the environment, in relation to an engineering activity.

While this document interchangeably refers to “license” and “registration”, the difference in meaning may not be clear on first reading, and requires some explanation

1.2 “**Licence**” is an entitlement by law granted to persons who meet relevant standards of competence to take defined responsibilities or to perform defined functions. A licence is not perpetual and may be withdrawn resulting from a contravention of a law or the code of conduct.”

“Registration” - The same definition can be used as in “Licence”. However, in terms of the Engineering Profession Act, a person who is compelled to register before being permitted to perform identified work is in effect awarded a **licence**. In other cases, where work has not been identified, a person performing such work may still apply for registration – in which case registration does not constitute a licence. Furthermore, a licence may be granted under the authority of another Act which requires that a person must be registered with ECSA (in a specified category) before being permitted to perform work regulated by that Act, i.e. Lift Inspectors.

Therefore, in the context of the Engineering Profession Act, the word **“licence”** will always imply **“registration”**, but conversely, **“registration”** will not necessarily imply a **“licence”**.

2. CRITERIA FOR ESTABLISHING A SPECIFIED CATEGORY

The establishment of a specified category must conform to the following criteria:

- 2.1 A specified category may be established when there is an identified need to:
- Protect public safety, health and interests;
 - Protect the environment;
 - Promote competent performance in specified areas of engineering work.
- 2.2 The justification for a specified category may arise from:
- An existing legislative requirement;
 - A need to ensure accountability among all practitioners in a specific area;
 - A need identified for regulation in an industry in the absence of specific legislation.
- 2.3 A specified category may be defined either:
- On a stand-alone basis in terms of a complete set of requirements as contemplated in Section 18(1)(c) (in which case it is not a professional category), or
 - As requiring registration in a stated professional category as contemplated in section 18(1)(a) of the Act, and additional requirements essential to the specified functions.
- 2.4 The nature of functions performed by the practitioners must have a significant engineering content.
- 2.5 The principle of inclusivity, as pronounced in the Policy Document on the Professions in the Built Environment is an important consideration. To this end, the functions of the practitioner in each specified category must be defined in terms of the required assessable competencies and underpinning knowledge. Education and training providers can then design programmes to provide progression.
- 2.6 The need for the **licensing** of these practitioners, through registration by means of either external legislation or through the Engineering Profession Act, must not only be accepted by the stakeholders of the particular industry, but also be desirable, feasible and sustainable (in terms numbers of practitioners).
- 2.7 ECSA's pursuit of these principles will be guided by the needs expressed by the majority of stakeholders in a particular industry/sector, tempered by the principles expounded in this document.

3. PROCESS FOR ESTABLISHING A SPECIFIED CATEGORY

The development of new registration categories involves the following stages:

3.1 Stakeholders raise their needs in a series of meetings with the CEO and/or the Directorate: Strategic Implementation and Quality. Stakeholders are typically a state department, an industry sector, a SETA, a standards body, a qualifications authority, a professional body, a provider or an individual.

Discussions are held as appropriate and a written outline proposal is formulated. The outline proposal should examine whether the initiative falls within the ambit of ECSA's vision and statutory empowerment.

3.2 The Directorate: Strategic Implementation and Quality facilitates the development of a feasibility study by stakeholders and notifies the Central Registration Committee. The feasibility study should address the following issues:

- The potential impact of the development on public safety, health and interests, protection of the environment.
- Existing standards relating to practitioners qualifications, engineering work and taking of responsibility.
- An indication of the work that needs to be identified in that category.
- The need for enhanced or new standards, if any.
- Existing and new statutory requirements under the relevant Acts, for purposes of licensing.
- The procedures required to support the application of the standards.
- The external and internal stakeholders in the development.
- The role of the initiative in national development and competitive industry.
- The potential numbers of practitioners who could be registered.
- The development effort and an outline programme.
- Funding requirements for the development stage.
- Sources of funding, either external or through ECSA investing its own resources. In the latter case, the future income as a result of the development must be projected.

3.3 Stakeholders present their proposal to the Central Registration Committee for initial evaluation against the criteria as set out in item 2.

3.4 The feasibility study and recommendation from the Central Registration Committee are submitted to Council or the Executive Committee for consideration and decision on whether or not to proceed with the actual development work.

3.5 The Council appoints a Steering Committee representing all the stakeholders to develop the following:

- Stage 1 (educational) and stage 2 (registration) standards through the ESGB;
- Policies incorporating proposed structures, functions and processes;
- Rules incorporating proposed structures, functions, processes and identified work.

3.6 The Steering Committee submits the stage 1 & stage 2 standards, policies and rules for comment to the Central Education Advisory Committee and the Central Registration Committee.

3.7 The standards and rules are then submitted to Council/EXCO for the approval of the new category.

3.8 Draft rules are published in the Government Gazette for general comment.

3.9 Council finally approves and implements the new system.

3.10 Council reviews and maintains the system. Once standards and procedures are in operation, the Steering Committee is dissolved and the Central Registration Committee is charged with the following duties:

- Receives periodic reports on the application of the standards and the operation of the procedures from the responsible committees.
- Undertakes reviews of standards at defined intervals.
- Responds to ad hoc requests for minor and major changes.