

NOTICE

05 August 2015

**Update on the exemption application in respect of the Draft Identification of Engineering Work (IDoEW) Regulations, Case # 2014 April 0123**

Dear Stakeholder

**1. Background**

Enabling Legislation.

1.1 Section 26 of the Engineering profession Act 46 of 2000, states that:

- 1) *The council must consult with-*
  - (a) *all voluntary associations;*
  - (b) *any person;*
  - (c) *anybody; or*
  - (d) *any industry,*

*that may be affected by any laws regulating the built environment professions regarding the identification of the type of engineering 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.*

1.2 Section 20 of the Council for the Built Environment Act 43 of 2000, states

*(1) The council must, after receipt of the recommendations of the councils for the professions submitted to it in terms of the professions' Acts, and before liaising with the Competition Commission (CC) in terms of section 4 (q)-*

- (a) determine policy with regard to the identification of work for the different categories of registered persons;*
- (b) consult with any person, body or industry that may be affected by the identification of work in terms of this section.*

*(2) The council must, after consultation with the Competition Commission (CC), and in consultation with the councils for the professions, identify the scope of work for every category of registered persons.*

## 2. History

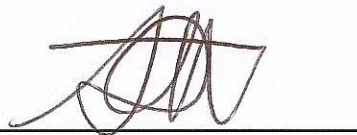
- 2.1 The Council approved, the IDOEW Policy and draft 19 of the Regulations in November 2013.
- 2.2 The CBE approved the above draft in March 2014, and applied for an exemption with the Competition Commission (CC).
- 2.3 In April 2014, case number 2014Apro123, was allocated to ECSA by the CC.
- 2.4 20 June 2014, a Notice was published in the Government Gazette, by the CC, inviting interested parties to make submissions.
- 2.5 June 2014 - current, direct consultation by the CC with a number of stakeholders, including Municipalities, the Department of Public Works (DPW) and other consumers of ECSA's registered members' services throughout South Africa.

- 2.6 June 2014, CC invited ECSA's registered persons to make submissions and received 450 submissions from ECSA's registered members.
- 2.7 May 2015, CC informed ECSA that the investigating team is still consulting and will submit its final report to the Executive Committee.
- 2.8 June 2015, CC informed ECSA that the Executive Committee has requested a meeting for 30 June 2015, with the Minister of Department of Public Works before making its decision regarding the exemption application on the Identification of Work (IDOW) of the six Built Environment Professions Councils.

### 3. Update

The CC recently informed ECSA that the meeting of 30 June 2015 did not take place. They are still in discussions with the Minister in order to set up a meeting. They do not have a target date for completion of ECSA's exemption application.

Please check the ECSA website monthly for updates.



**Adv. L Brimah**

**Manager: Legal Services**