DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NO. 464 **26 MAY 2017**

DRAFT OF THE PROPOSED REGULATIONS IN TERMS OF SECTION 31 (1) OF THE GEOMATICS PROFESSION ACT, 2013 (ACT No. 19 OF 2013)

I, Gugile Ernest Nkwinti, Minister for Department of Rural Development and Land Reform, hereby publish a draft of the proposed regulations and invite written comments from interested persons and voluntary associations in terms section 31 (1) the Geomatics Profession Act, 2013 (Act No. 19 of 2013).

The afore-said written comments must be forwarded to the below-mentioned postal address or fax or e-mail address within 30 days from the date of publication of this Notice:

Private Bag X 954
Pretoria
0001
Fax No : (012) 326- 5640
Email address: kim.mawela@drdlr.gov.za
Enquiries: N. Mazibuko or F Lehabe

NKWINTI, G E (MP)
MINISTER: RURAL DEVELOPMENT AND LAND REFORM
DATE: 30/03/2017

GEOMATICS PROFESSION ACT 19 OF 2013

REGULATIONS PROMULGATED IN TERMS OF SECTION 31 (1) OF GEOMATICS PROFESSION ACT, 2013 (ACT No. 19 OF 2013)

The Minister has in terms of section 31(1) of the Geomatics Profession Act, 2013 (Act No 19 of 2013) made the following draft proposed regulations for interested persons and voluntary associations to make written comments.

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1 Definitions

In these regulations, a word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates –

"Council" means South African Geomatics Council established in terms of section 3(1) of the Act;

"Education and Training Committee" means the committee established in terms of section 6 (2) of the Act;

"Investigating officer" mean one or more investigating officers appointed by the Council in terms of section 20 (1) of the Act, to investigate a charge of improper conduct;

"Geomatics Profession" means the profession that is defined in section 1 of the Act;

"Minister" means Minister of Rural Development and Land Reform;

"**Registered person/s**" means person/s registered in terms of section 13 of the Act;

"**the Act**" means the Geomatics Profession Act, 2013 (Act No 19 of 2013).

2. Removal of member of the Council

The Minister may in terms of section 5 (4) of the Act remove a Council member on the grounds of misconduct or incompetence upon receipt of any of the following:-

(1) (a) a written complaint from the Council;

(b) a written complaint from a member of the public;

(c) a written complaint from any organisation representing public interest;

(d) a written complaint from any of the recognised voluntary associations;

(e) a written complaint from any registered member of the geomatics profession.

(2) The Minister shall, within 30 days from the date of receipt of the written complaint, appoint a suitably qualified person to conduct an investigation and submit a comprehensive report in order for the Minister to satisfy him/ or herself that the complaint is valid and consistent with the provisions of section 5 (4) of the Act. The Minister may during the course of the investigation, request written representation from the Council member concerned.

(3) The Minister shall after the investigation apply his/ her mind to the report/ or outcome of the investigation and issue a written directive within 30 days after the period referred to in regulation 2 (2) has elapsed.

(4) The written directive referred to in regulation 2 (3) above shall be forwarded by registered mail to the last known address of the Council member concerned and a copy thereof shall be simultaneously forwarded to the Council for noting and safe keeping.

(5) Should the Minister fail to respond after 60 days from the date of receipt of the written complaint, such written complaint shall be deemed not to have been considered by the Minister and the party that has lodged a complaint may forward written enquiries to the Minister.

3 Committees of the Council

(1) Members of the Council shall, subject to section 10 of the Act, nominate members of an Education and Training Committee which shall consist of at least four (4) but not more than six (6) members, of whom:-

(a) at least one (1) must have been nominated in terms of section 4 (1) (c) of the Act, representing academia;

(b) one must have been nominated in terms of section 4 (1) (d) of the Act, representing the interest of the public.

(2) The Chairperson of the Council shall within 14 days period, after such nominations, issue written appointment letters to the members nominated to the Education and Training Committee.

(3) The Council may, subject to section 10 of the Act, remove or replace any member of the committee upon good cause shown or fill in any vacancy that becomes open in the committee as soon as reasonably possible to do so.

(4) The procedure expounded in this regulation 3 shall, *mutatis mutandis,* apply in the establishment of any committee/ s for the purpose necessary to assist Council in the performance of its functions in terms of the Act.

4 Disciplinary Matters

(1) For the effective performance of the functions of the disciplinary tribunal, the rules of natural justice including the following must be observed in terms of section 23 (10) of the Act:-

(a) the investigating officer appointed in terms of section 20 (1), shall within 90 days from the date of appointment by the Council conclude his/ or her investigation and submit his/ or her report together with recommendations to the Council;

(b) the Council shall, if it is satisfied that a *prima facie* case exists, deliver the documents referred to in section 21 (2) of the Act within fourteen (14) days from the date of receipt of the report from the investigating officer.

(2) In appointing the investigating officer in terms of section 20 (1) of the Act, the Council shall ensure that the person/s appointed to serve as investigating officer/s meet any one of or any combination of or all of the following requirements:-

(a) the person/ s must be registered in terms of the Act; or

(b) the person/ s must be in possession of more than 3 years' experience in legal practice, practicing for his or her own account; or

(c) the person/ s must have specialised knowledge of matters concerning an alleged improper misconduct; or

(d) the person/ s must suitably qualified according to the needs and requirements of the Council at the time when the cause of action arises.

(3) In appointing the disciplinary tribunal in terms of section 22 of the Act, the Council shall nominate persons who meet the criteria as set out in section 22 (2) and upon acceptance of nomination by nominees, the Council shall appoint such nominees, subject to sub-regulation 4 (4).

(4) Appointments in terms of sub-rule 4 (2) and (3) shall be conducted in a manner that is consistent with the provisions of section 10 of the Act.

5 Summons or Subpoena

(1) The summons or subpoena to be issued by the disciplinary tribunal in terms of section 23 (1) (a) of the Act shall be prescribed in terms of section 23 (2) as forms 5.1 A and 5.1 B herein marked annexures "A" and "B".

(2) The summons or subpoena shall, among other things, contain the following:-

(a) full particulars of the person charged with the improper conduct or subpoenaed to appear before the disciplinary tribunal;

(b) the date, time and venue at which the enquiry will be conducted;

(c) the address at which notices, correspondences and legal process may be served or obtained; and

(d) sufficient particulars/ or details of the alleged improper conduct to enable the person facing the charges or subpoenaed to appear before the disciplinary tribunal a reasonable and fair opportunity to prepare his/ her case.

6 Fine

The disciplinary tribunal may, in terms of section 24 (4) (b) of the Act impose on the registered person a fine not exceeding an amount of R50 000, which amount may be fixed upon request from the Council or from time to time. Any fine imposed by the disciplinary tribunal may, upon appeal, be confirmed or varied by the Appeal Board established in terms of section 25 (1) of the Act.

7 Appeal Procedure

(1) In discharging its duties diligently the Appeal Board shall, in terms of 26 (5), hear appeals and deliver its finding within thirty days after the appellant has lodged an appeal in terms of section 28 (2) (a);

(2) The hearing of appeal proceedings shall be recorded by means of an electronic or mechanical device;

(3) In hearing the appeal proceedings the Appeal Board must, among other things, consider the following:

(a) notice of the disciplinary hearing;

(b) appointment of chair of disciplinary hearing;

(c) description of the allegations of misconduct (charge sheet);

(d) description of the main evidence which the appellant and the complainant relied upon;

(e) electronic or transcribed record, where applicable, of the proceedings of hearing by the disciplinary tribunal;

(f) aggravating or mitigating circumstances presented by the parties to a disciplinary tribunal

(g) written finding, and reasons for the finding of the chairperson of the disciplinary tribunal;

(h) all other documentation and particulars relevant to the case in question.

(i) whether appellant was given adequate time to prepare for the disciplinary hearing in terms section 23;

(i) whether the appellant in terms section 28 (1) (b) and/ or (b) was given adequate time to for the hearing his or her grievance or objection; and

(j) adopted minutes of the Council where the appeal is in terms of section 28 (1) (b) and/ or (c).

FORM 5.1 A

Annexure "A"

In the matter between:

South African Geomatics Council

and

Name of the person charged with improper conduct

DRAFT SUMMONS: NOTICE OF IMPROPER CONDUCT

The person charged with the misconduct is Mr/ Ms_____ whose full and further particulars are as follows:

Contact details :_____

Registration category:_____

Registration No :_____

Employment details :_____

The person charged with the improper conduct has contravened the following Rule :_____ in that on/ or about_____ at/ or near_____ within/ or outside the Republic of South Africa you committed/ or omitted the following:

1. Charge 1

1.1 detailing the nature of the improper misconduct

OR Alternative charge (if necessary)

2. alternative charge 1

2.1 detailing the alternative nature of the improper misconduct

Details of the hearing are as follows:

Date:_____

Time:_____

Venue:_____

Please note that all notices, correspondences and any legal process may be served or obtained at the following address:

Signed at _____ on this____ day of_____2_____

_____

Signed by_____on behalf of the triibunal

1234 PTA Street

Jozi

0001

Ref:_____

FORM 5.1 B

Annexure "B"

In the matter between:

South African Geomatics Council

and

Name of the person subpoenaed

DRAFT SUBPOENA

The person subpoenaed before the disciplinary tribunal is Mr/ Ms_____ whose full and further particulars are as follows:

Contact details :_____

Registration category:_____

Registration No :_____

Employment details :_____

Details of the hearing are as follows:

Date :_____

Time :_____

Venue:_____

Please note that all notices, correspondences and any legal process may be served or obtained at the following address:

Signed at _____ on this____ day of_____2_____

Signed by_____on behalf of the tribunal

1234 PTA Street

Jozi

0001

Ref:_____