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## GENERAL NOTICE

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### NOTICE 311 OF 2011

#### DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

#### INVITATION TO COMMENT ON THE DRAFT GEOMATICS PROFESSION BILL, 2011

The Department of Rural Development and Land Reform hereby invites any interested person or body to provide comments on the draft Geomatics Profession Bill (hereinafter referred to as the Bill), as published hereunder.

The main purpose of the Bill is to provide for the transformation of the geomatics profession, to provide for the establishment of the South African Geomatics Council as a juristic person and to provide for the facilitation of accessibility to the geomatics profession. The Bill also seeks to provide for measures designed to protect the public from unethical geomatics practices and to provide for measures in order to maintain a high standard of professional conduct and integrity. The Bill, when enacted, will repeal the current Professional and Technical Surveyors' Act, 1984.

The closing date for comments on the Bill is 21 calendar days from the date of publication of this notice in the *Gazette*.

Comments must be submitted in writing by e-mail or fax, to the following persons:

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Chief Surveyor-General

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REPUBLIC OF SOUTH AFRICA

GEOMATICS PROFESSION BILL

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*(As introduced in the National Assembly as a section 75 Bill;  
Bill published in Government Gazette No.      of      )  
(The English text is the official text of the Bill)  
(This is the date of publication of the certified version of the Bill)*

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(MINISTER OF RURAL DEVELOPMENT AND LAND REFORM)

[B ... - 2011]

# **BILL**

**To provide for the transformation of the geomatics profession; to provide for the establishment of the South African Geomatics Council as a juristic person; to provide for the facilitation of accessibility to the geomatics profession; to provide for different categories of registered persons and branches in the geomatics profession; to provide for the identification of areas of work to be performed by the different categories of registered persons; to provide for the recognition of certain voluntary associations by the Council; to provide for measures designed to protect the public from unethical geomatics practices; to provide for measures in order to maintain a high standard of professional conduct and integrity; to provide for the establishment of disciplinary mechanisms; to provide for the establishment of an Appeal Board; and to provide for matters connected therewith.**

**BE IT ENACTED** by the Parliament of the Republic of South Africa, as follows:-

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**SCHEDULE 1**

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**SCHEDULE 2**

Amendment of laws

## CHAPTER 1 DEFINITIONS AND GEOMATICS PROFESSION PRINCIPLES

### Definitions

1. (1) In this Act, unless the context indicates otherwise-

“**accreditation**” means the process of evaluation and recognition by the Council of educational programmes offered by educational institutions related to the geomatics profession;

“**Appeal Board**” means the Appeal Board established by section 24;

“**assessment**” means an admission procedure, established by the Council, to determine whether an applicant is competent to be registered in any of the categories contemplated in section 13(1);

“**branch**” means a specific specialisation field of geomatics including, but not limited to, land surveying, topographical surveying, engineering surveying, mine surveying and geo-spatial information science or any other specialisation field which may from time to time be determined by the Minister by notice in the *Gazette*;

“**candidate geomatics practitioner**” means a person registered as a candidate geomatics practitioner in terms of section 13(4)(a);

“**category**” means a specific level of registration contemplated in section 13(1) or any other level of registration as may from time to time be prescribed by the Minister after consultation with the Council;

“**committee**” means a committee of the Council established in terms of section 6;

“**Council**” means the South African Geomatics Council established by section 3;

“**Department**” means the Department of Rural Development and Land Reform;

“**Director-General**” means the Director-General of the Department;

**“educational institution”** means any educational institution which has a department, school or faculty, or offers a recognised programme, of geomatics, surveying, land surveying or geo-spatial information science;

**“financial year”** means a year ending on 31 March;

**“geo-spatial information”, “geoinformation”, “geographic information” or “spatial information”** means information that describes the location and characteristics of natural or human made phenomena in relation to the earth’s surface;

**“geomatics profession”** means the profession consisting of persons registered in terms of section 13(4);

**“geomatics practitioner”** means a person who exercises skills and competencies in the science of measurement, the collection and assessment of geographic information and the application of that information in the efficient administration of land, the sea and structures thereon or therein, as contemplated in section 2(a), and who is registered in one or more of the branches of geomatics and in one or more of the categories contemplated in section 13(4)(b), (c) and (d);

**“geomatics professional”** means a person registered in terms of section 13(4)(d);

**“geomatics technician”** means a person registered in terms of section 13(4)(b);

**“geomatics technologist”** means a person registered in terms of section 13(4)(c);

**“Minister”** means the Minister of Rural Development and Land Reform;

**“National Qualifications Framework”** (hereinafter referred to as NQF) means the National Qualifications Framework contemplated in Chapter 2 of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008);

**“prescribe”** means prescribe by regulation made by the Minister;

**“professional land surveyor”** means a person registered as a geomatics professional in terms of section 13(4)(d) in the branch of land surveying and who is

authorised to perform work reserved for a professional land surveyor in terms of the Land Survey Act, 1997 (Act No. 8 of 1997), and whose name is entered in the register for professional land surveyors contemplated in section 8(1)(b)(ii)(bb);

**“register”** when used as a noun, means any of the registers referred to in section 8(1)(b)(ii);

**“registered persons”** means persons registered in terms of section 13(4);

**“Registrar”** means the person appointed as Registrar under section 8(1)(a);

**“rule”** means any rule made and published by the Council in accordance with the provisions of this Act;

**“sea”** means the sea as defined in section 1 of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

**“surveying”** is a component of geomatics work referred to in section 2;

**“this Act”** means the Geomatics Profession Act, 2011, and includes any regulation or rule; and

**“voluntary association”** means any association, organisation, institute, institution or other body of registered persons recognised by the Council in terms of section 17.

(2) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

## **Geomatics profession principles**

2. The principles set out in this section apply to the Council and all registered persons and must guide the interpretation, administration and implementation of this Act:



- (a) Geomatics and the geomatics profession are areas of expertise which involve one or more of the following activities which may occur on, above or below the surface of the land or the sea: -
  - (i) the determination of the size and shape of the earth and the measurement and recording of all data needed to define the size, position, shape and contour of any part of the earth;
  - (ii) the spatial positioning of objects and the positioning and monitoring of physical features, structures and engineering works;
  - (iii) the planning and determination of the position of the boundaries of land and of rights in land, for the purpose of registration of such land and rights in terms of applicable legislation;
  - (iv) the design, establishment and administration of geographic information systems and the collection, storage, analysis, visualisation and management of geo-spatial information;
  - (v) the measurement of land, mineral and marine resources: and
  - (vi) such other activity as may be prescribed in this or any other relevant Act;
- (b) geomatics work must pursue and serve the interests of the public to benefit the present and future generations; and
- (c) the Council and the geomatics profession must -
  - (i) strive to achieve the transformation, transparency and equity of the profession to ensure its legitimacy and effectiveness;
  - (ii) strive to achieve high standards of quality and integrity in the profession;

- (iii) promote the profession and pursue improvements in the competence of registered persons through the development of skills, knowledge and standards within the profession; and
- (iv) promote environmentally responsible geomatics work which will ensure sustainable development.

## **CHAPTER 2**

### **SOUTH AFRICAN GEOMATICS COUNCIL**

#### **Establishment of South African Geomatics Council**

**3.** (1) There is hereby established a juristic person called the South African Geomatics Council.

(2) The Council must perform the functions provided for in this Act.

(3) The Council must, in accordance with sections 13(1)(i)(i) and 29 of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), and within 90 days from the date of its first meeting, apply to be recognised as a professional body in terms of that Act.

#### **Composition of Council**

**4.** (1) The Council, subject to the provisions of paragraph (f), consists of at least 11 but not more than 14 members, appointed in writing by the Minister as follows:-

- (a) four geomatics professionals in the full-time employ of the State, of whom -
  - (i) one is the Chief Surveyor-General appointed in terms of section 2 of the Land Survey Act, 1997 (Act No. 8 of 1997);
  - (ii) two must be geomatics practitioners in the full-time employ of the Department; and

- (iii) one must be a geomatics professional in the full-time employ of the Department of Minerals and Energy;
- (b) at least five but not more than seven geomatics professionals of whom-
  - (i) at least two must be geomatics practitioners who are not in the full-time employ of the State and of whom one must represent professional land surveyors;
  - (ii) at least four but not more than five must represent the recognised voluntary associations referred to in section 17;
- (c) one person nominated by the Council on Higher Education referred to in section 4 of the Higher Education Act, 1997 (Act No. 101 of 1997);
- (d) at least one but not more than two persons to represent the interests of the public; and
- (e) for the first term of the Council, the members referred to in subsection (2).

(2) A maximum of five of the members of the council established in terms of section 2 of the Professional and Technical Surveyors' Act, 1984 (Act No. 40 of 1984), who are nominated by that council before the repeal of that Act and taking into account the provisions of subsection (1), shall remain in office for the first term of the Council established in terms of this Act.

(3) Persons to be considered for appointment in terms of subsection (1)(a)(ii) and (iii) must be nominated by the Directors-General or Accounting Officers of the departments referred to in that subsection or as may be prescribed.

(4) Whenever it is necessary to appoint a member in terms of subsection (1)(a)(iii), (b), (c) or (d), the Minister must invite written nominations of persons other than candidate geomatics practitioners, to be considered for appointment as such a member -

- (a) through advertisements in the *Gazette* and other media circulating nationally or otherwise;
- (b) by any other method including approaching persons directly; and
- (c) in any manner as may be prescribed,

and must indicate the category and branch of registered persons to be represented by such member.

(5) A nomination must be supported by -

- (a) the personal details of the nominee;
- (b) particulars of his or her qualifications, experience in geomatics or related matters or skills which may make him or her suitable for appointment; and
- (c) any other information that may be prescribed.

(6) In appointing a member, the Minister must have due regard to -

- (a) the geomatics profession principles referred to in section 2;
- (b) the different constituencies to be represented in terms of subsection (1);
- (c) the different categories of registered persons referred to in section 13; and
- (d) the need to promote representation, including gender, disability and other demographic representation.

(7) The Minister must appoint, from the members of the Council, a chairperson, a deputy chairperson and alternate chairperson of the Council.

(8) When the chairperson is unable to perform the functions of that office, they shall be performed by the deputy chairperson or, if he or she is also unable to do so, by the alternate chairperson.

(9) Subject to subsection (12), a member or an office bearer is appointed for a period of four years and, with the exception of the Chief Surveyor-General, may not serve more than two consecutive terms of office.

(10) The Minister must, by notice in the *Gazette*, publish the names of and the position held by an appointee to the Council, including alternate members, and the date on which his or her appointment takes effect.

(11) If a vacancy in the membership or alternate membership or in an office of the Council occurs, the Minister may appoint, in accordance with this section, a replacement member or office bearer for the unexpired portion of the four-year period applicable to such vacancy.

(12) The Minister may, in writing and on such conditions as he or she considers appropriate, extend the term of office of a member or alternate member or office bearer until a new Council, member or office bearer is appointed.

(13) (a) For every member of the Council, there must be an alternate member, nominated and appointed in the same manner and for the same term of office as the relevant member.

(b) An alternate member must act in the place of the relevant member during such member's absence or inability to act as a member.

(c) An alternate member may, with the concurrence of the Council, attend and participate in any other meeting of the Council where the member to whom such person is an alternate member is present, but may not vote on any matter to be considered by the Council.

**Disqualification as member of Council and vacation of office**

5. (1) The Minister may not appoint as a member or alternate member of the Council a person who -

- (a) is not a South African citizen and a permanent resident, and is not ordinarily resident in the Republic of South Africa;
- (b) is an unrehabilitated insolvent;
- (c) is declared by a court of law to be mentally incompetent or is detained in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (d) has been convicted, whether in the Republic of South Africa or elsewhere, of an offence involving dishonesty and for which he or she was sentenced to imprisonment without the option of a fine, unless the person has received a grant of amnesty or a free pardon before the date of his or her appointment;
- (e) has been removed from an office of trust on account of improper conduct;
- (f) has had his or her name removed from any professional register on account of misconduct and has not been reinstated;
- (g) has been determined by a court, tribunal or forum as contemplated by section 20 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), to have contravened section 7 or any other provision of that Act;
- (h) is a political office bearer at the national, provincial or municipal sphere of government; or
- (i) is, in the Minister's opinion, not a fit and proper person to be appointed.

(2) A member or alternate member of the Council must vacate his or her office, if such member -

- (a) becomes disqualified in terms of subsection (1) from being appointed as a member of the Council;
- (b) resigns by written notice to the Minister;
- (c) is, in the Minister's opinion, after consultation with the Council, incapable of performing his or her duties due to ill health; or
- (d) has, without the leave of the Council, been absent from two or more consecutive meetings of the Council.

#### **Committees of Council**

6. (1) (a) The Council may, on such conditions as may be prescribed or as it considers appropriate, establish committees to assist it in the performance of its functions, and may appoint such of its members, registered persons and other persons as it may deem fit, to be members of such committees.

(b) The Council may designate one of the members of a committee as chairperson of the committee.

(c) If the Council does not designate a chairperson of a committee, the committee may, at its first meeting, elect a chairperson from amongst its members.

(2) The Council must establish an Education and Training Committee in the prescribed manner which must -

- (a) serve solely as a committee on educational and training matters; and
- (b) advise or assist the Council as the Council may determine on -
  - (i) matters contemplated in section 8(1)(d);

(ii) the methods and procedures for the assessment of and registration in the various categories and branches of registered persons; and

(iii) all educational, training, skills development and related matters.

(3) The provisions of section 10 apply, with the necessary changes, in respect of a committee of the Council.

### **Functions of Council**

7. The functions of the Council are to -

- (a) regulate the geomatics profession so as to promote and protect the interests of the public in relation to geomatics work, provided it is not inconsistent with any other applicable law;
- (b) register persons in terms of this Act;
- (c) institute and enforce disciplinary action against registered persons contravening the provisions of this Act;
- (d) support the functioning of disciplinary and appeal structures established under this Act;
- (e) ensure and promote a high standard of education and training in the geomatics sector; and
- (f) advise the Minister on any matter referred to it by the Minister or on any matter it considers necessary to achieve the objects of this Act.

### **Powers and duties of Council**

8. (1) The Council, in exercising its powers and performing its duties -

- (a) with regard to administrative matters -



- (i) must, with the concurrence of the Minister and the Minister of Finance, appoint, remunerate and determine the conditions of service of the Registrar and such other persons employed by it as it considers necessary for the performance of its functions, and determine their functions;
  - (ii) must determine where its head office must be situated;
  - (iii) must determine the manner of convening meetings and the procedure at meetings of the Council or of any committee, the quorum for committee meetings and the manner in which minutes of all meetings must be kept;
  - (iv) may take any reasonable steps necessary to publish any publication relating to the geomatics profession and related matters; and
  - (v) must make rules in respect of the procedure for the cancellation or suspension of the registration of a person registered in terms of this Act;
- (b) with regard to the registration of persons in terms of section 13 -
- (i) must, subject to the provisions of this Act, consider and decide on any application for registration;
  - (ii) must, in the manner as may be prescribed, keep and maintain a register of –
    - (aa) persons registered in each of the categories contemplated in section 13, including persons referred to in section 36(3) and, in the case of geomatics technicians, geomatics technologists and geomatics professionals, must specify which branch or branches of geomatics each person is entitled to practice in, which

register must at all reasonable times be open for inspection by any member of the public;

(bb) professional land surveyors who are qualified to perform the surveys referred to in section 13(2)(b);

(iii) must decide upon the form of the register and registration certificates to be issued, the reviewing thereof and the manner in which alterations thereto may be effected; and

(iv) must within 90 days of its first meeting, or within such extended period as the Minister may approve, make rules in respect of the manner in which any person must apply for registration and the qualifications necessary for such registration;

(c) with regard to fees -

(i) must make rules in respect of the application, registration and with the concurrence of the Minister and the Minister of Finance, the annual fees payable to the Council by the different categories of applicants or registered persons, or the portion of such annual fees which is payable in respect of any part of a year, as well as the date on which any fee or portion thereof is payable;

(ii) may on good cause grant exemption from payment of application fees, registration fees, annual fees or a portion thereof or defer any such payment;

(iii) must, with the concurrence of the Minister and the Minister of Finance, determine the fees or any part thereof payable to the Council in respect of any assessment referred to in section 13(4), conducted by or on behalf of the Council;

(iv) must, with the concurrence of the Minister and the Minister of Finance, make rules in respect of the fees payable in respect of

the lodging of an appeal with the Appeal Board and the copying or transcription of records of a disciplinary tribunal; and

- (iv) may, with the concurrence of the Minister and the Minister of Finance, determine any other fee it considers necessary:

Provided that in determining such fees the Council must be guided by the actual administrative costs associated with the specific service;

- (d) with regard to education and training -

- (i) must consult with the relevant quality council referred to in Chapter 5 of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), and the voluntary associations, to determine the required competency standards relevant to the geomatics profession;
- (ii) must conduct accreditation visits to educational institutions offering educational programmes with regard to geomatics at least once in four years and, if the Council does not conduct an accreditation visit within the four-year period, must notify the Minister accordingly and provide reasons for not visiting such institutions;
- (iii) may grant, conditionally grant, refuse or withdraw the accreditation of educational programmes with regard to geomatics;
- (iv) must deal with matters pertaining to education and training in consultation with the Council on Higher Education established in terms of the Higher Education Act, 1997 (Act No. 101 of 1997);
- (v) may establish mechanisms for registered persons to gain recognition of their qualifications and professional status in other countries;

- (vi) may enter into an agreement with any person or body, within or outside the Republic of South Africa, with regard to the recognition of any examination or qualification for the purposes of this Act;
- (vii) may advise or assist any educational institution, voluntary association or examining body with regard to educational facilities for the training of registered persons and prospective registered persons;
- (viii) must make rules to determine the procedure for any assessment for the purposes of section 13(4) of this Act; and
- (ix) must make rules which determine –
  - (aa) the conditions relating to continuing professional development;
  - (bb) the nature and extent of continuing professional development to be undertaken by persons registered in terms of this Act;
  - (cc) the criteria for recognition of continuing professional development and of service providers offering such activities;
  - (dd) the recognition of professionals who offer opportunities for practical training towards the development of graduates and potential graduates; and
  - (ee) in liaison with the relevant quality council referred to in Chapter 5 of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), and the South African Qualifications Authority, if applicable, the recognition of any prior learning related to the geomatics profession;

- (e) with regard to finance and subject to subsection (2) of this section and sections 66 and 70 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), where applicable, –
  - (i) must collect all moneys due to it;
  - (ii) may invest its funds in any registered financial institution approved by the National Treasury;
  - (iii) may, with the approval of the Minister of Finance, raise loans for the purpose of effectively performing its functions;
  - (iv) may, with a view to promoting any matter relating to the geomatics profession, lend money in the manner, subject to the conditions and against such security as prescribed by the Minister with the concurrence of the Minister of Finance;
  - (v) may, with the approval of the Minister of Finance, mortgage any of its immovable property as security for any loan raised for the purpose of effectively performing its functions;
  - (vi) may, in consultation with the National Treasury, undertake fund-raising activities including conferences, production and sale of merchandise and publications; and
  - (vii) may open, operate and close such current or savings bank accounts with a registered commercial bank as it may require to effectively perform its functions and duties;
- (f) in general and subject to subsection (2) -
  - (i) may acquire or lease such movable or immovable property as it considers necessary for the effective performance of its functions and let, sell or otherwise dispose of property acquired;

- (ii) must decide upon the manner in which contracts must be entered into on its behalf;
- (iii) may advise the Minister or any other minister, as the case may be, on any matter relating to the geomatics profession;
- (iv) may take any steps which it considers necessary for the protection of the public in their dealings with registered persons, for the maintenance of the integrity, the enhancement of the status and the improvement of the standards of services rendered by those persons;
- (v) may take any steps which it considers necessary to create an awareness amongst registered persons of the importance of protecting the environment;
- (vi) must consider and give its final decision on recommendations of a committee of the Council;
- (vii) may from time to time insure, through a registered insurer, against any risk to which it, its members, its employees or registered persons, may be exposed; and
- (viii) may do anything necessary for or incidental to the proper performance of its functions referred to in this section.

(2) The Council must obtain the written approval of the Minister and the Minister of Finance, which approval may be granted subject to conditions, before -

- (a) investing funds, borrowing or lending money or entering into any lease, whether as lessor or lessee, if the period of the transaction will be longer than 12 months, and the value exceeds an amount prescribed by the Minister from time to time by publication of an appropriate notice in the *Gazette*; and

- (b) acquiring, disposing of or encumbering immovable property, irrespective of its value.

### **Meetings of Council**

9. (1) (a) The first meeting of the Council and any future first meetings of a newly appointed Council must be held at the time and place determined by the Chief Surveyor-General in concurrence with the Minister and subsequent meetings of the Council must be held at such times and places as determined by the Council.

(b) The first meeting of the Council and any future first meetings of a newly appointed Council must be chaired by the Chief Surveyor-General until a chairperson has been appointed as contemplated in section 4(7).

(2) The Council must hold at least two meetings each year, but may hold such further meetings as it determines from time to time.

(3) The chairperson may at any time on reasonable grounds and on written notice of the purpose of the meeting, convene a special meeting of the Council, to be held on a date and place that he or she determines.

(4) The chairperson must, on notice of the purpose of the meeting, convene a special meeting on request of -

(a) the Minister; or

(b) at least one third of the Council members.

(5) A special meeting requested in terms of subsection (4) must be held within 30 days after the date of receipt of the request, on a date and at a place the chairperson determines.

(6) A majority of the members of the Council constitutes a quorum at any meeting of the Council.



(7) If within an hour after the time scheduled for a meeting, a quorum is not present, the meeting must be adjourned to a date to be determined by the chairperson, which date must not be earlier than seven days and not later than 21 days after the date of the meeting so adjourned and the members then present at the meeting, constitute a quorum.

(8) The Council or a committee is a body of record and must keep appropriate records of its activities, including minutes of its meetings, its documents and documents submitted to or obtained by it.

(9) Copies of the minutes of and the reports tabled at the meetings or proceedings of the Council or a committee must be forwarded to the Minister and Director-General within 60 days after the date of each meeting or proceeding.

#### **Decisions of Council**

**10.** (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 a deadlock, the chairperson has a casting vote in addition to a deliberative vote.

(3) A decision taken by the Council or act performed under the authority of the Council, is not invalid by reason only of a vacancy on the Council or of the fact that a person who is not entitled to sit as a member of the Council sat as a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of the members of the Council who were present at the time and entitled to sit as members.

(4) The Minister may, after consultation with the Council and any person directly affected by a Council decision, suspend or revoke that decision on reasonable grounds and on such conditions as are just and equitable, if it is in the public interest to do so.

(5) The Minister must, on suspending a decision of the Council and before its revocation, remit such decision to the Council for reconsideration.



### **Remuneration of members of Council and committees**

11. The chairperson, deputy chairperson, other members of the Council and members of committees of the Council, including members of committees who are not members of the Council itself, but excluding any member who is in the full-time service of the State, must out of the funds of the Council be paid such remuneration and allowances as the Minister, with the concurrence of the Minister of Finance, may determine from time to time.

### **Funds of Council and keeping and auditing of accounts**

12. (1) The funds of the Council consist of money received by it in terms of the provisions of this Act and all other moneys which may accrue to it from any other source.

(2) The Council may, in consultation with the National Treasury, establish and administer an education fund for the purpose of educating, training and providing continued education and training of registered persons and students of geomatics.

(3) The Council must keep a full and correct account of all moneys received and expended by it.

(4) The Council must annually prepare a statement of income and expenditure and a balance sheet showing the financial position at the close of the financial year, which statement and balance sheet must be audited by an auditor registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005).

(5) A copy of the auditor's statement and balance sheet, after endorsement by the Council, must lie open for public inspection for a period of 14 days at the offices of the Council and the Council must give notice thereof to all registered persons in any manner deemed appropriate by the Council.

(6) The Council must within six months from the close of each financial year, submit the auditor's statement and balance sheet to the Minister.

(7) The Minister may, with the concurrence of the Minister of Finance, on receipt of a budgeted request and on the conditions he or she may determine, 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.

### **CHAPTER 3**

### **REGISTRATION**

#### **Registration of persons**

**13.** (1) A person may be registered in terms of subsection (4) in one or more of the following categories:

- (a) A candidate geomatics practitioner;
- (b) a geomatics technician;
- (c) a geomatics technologist; or
- (d) a geomatics professional,

and in one or more or all of the applicable branches of the geomatics profession.

(2) (a) A person may not practice in or perform any work, whether for reward or otherwise, which is reserved for any of the categories or branches referred to in subsection (1), unless he or she is registered in that category or branch or such practice or performance is supervised as may be required.

(b) A person whose name is not entered in the register for professional land surveyors referred to in section 8(1)(b)(ii)(bb), may not practice in or perform –

- (i) any survey for the purpose of preparing a diagram or general plan to be filed or registered in terms of any law governing the registration of any land or rights in land or mentioned in any manner whatsoever in any other document to be so filed or registered; or

- (ii) any survey affecting the delimitation of the boundaries or the location of the beacons of any land so registered.

(3) Any person intending to be registered in a category or branch contemplated in subsection (1), must apply for registration in the manner determined in rules.

(4) The Council must consider an application for registration, register the applicant in the relevant category and branch and issue to him or her a registration certificate in the form determined in rules, if the Council is satisfied that the applicant, –

- (a) in the case of a person applying for registration as a candidate geomatics practitioner, is registered for an accredited and appropriate geomatics educational programme registered on the NQF and recognised as contemplated in subsection (5);
- (b) in the case of a person applying for registration as a geomatics technician -
  - (i) has completed an accredited and appropriate geomatics educational programme registered on the NQF and recognised as contemplated in subsection (5);
  - (ii) has completed practical training as may be determined in rules; and
  - (iii) has passed a competency assessment determined by the Council;
- (c) in the case of a person applying for registration as a geomatics technologist -
  - (i) has completed an accredited and appropriate geomatics educational programme registered on the NQF and recognised as contemplated in subsection (5);

- (ii) has completed practical training as may be determined in rules; and
  - (iii) has passed a competency assessment determined by the Council; and
- (d) in the case of a person applying for registration as a geomatics professional -
  - (i) has completed an accredited and appropriate geomatics educational programme registered on the NQF and recognised as contemplated in subsection (5) ;
  - (ii) has completed practical training as may be determined in rules; and
  - (iii) has passed a competency assessment determined by the Council.

(5) For the purposes of subsection (4)(a), (b)(i), (c)(i) and (d)(i), the Council must, in liaison with the relevant quality council referred to in Chapter 5 of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), and as contemplated in section 28 of that Act, determine which educational programmes and qualifications relating to geomatics and as registered or to be registered on the NQF by the South African Qualifications Authority in terms of that Act, would be recognised for the respective purposes of subsection (4).

(6) Only a registered person may be described in terms of the category and branch of geomatics in which he or she is registered.

(7) The Council may determine abbreviations or acronyms for the categories and branches referred to in subsection (1).

(8) The Council must not register any person who -

- (a) is an unrehabilitated insolvent whose insolvency was caused by his or her negligence or incompetence in performing geomatics work;
- (b) is declared by a court of law to be mentally incompetent or is detained under the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (c) has been convicted, whether in the Republic of South Africa or elsewhere, of an offence involving dishonesty and for which he or she was sentenced to imprisonment without the option of a fine;
- (d) has been removed from an office of trust on account of improper conduct and has not been re-instated;
- (e) has had his or her name removed from any professional register on account of misconduct and has not been reinstated; or
- (f) is not, in the Council's reasonable opinion, a fit and proper person to be registered.

### **Cancellation of registration**

**14. (1)** The registration of a registered person who -

- (a) becomes disqualified on any ground referred to in section 13(7);
- (b) was erroneously registered;
- (c) was registered on the basis of incorrect information;
- (d) fails, without good reason and in the absence of an arrangement for deferred payment, to pay any amount owing to the Council on the due date or any extended date; or
- (e) fails, without good reason, to comply with the prescribed requirements in respect of continuing professional development or any rule in this regard,

may be cancelled in writing in terms of this section.

(2) The Council must notify such person in writing of its intention to cancel his or her registration and request the person to submit written representations, within a specified reasonable time, indicating the reasons why the registration should not be cancelled.

(3) If the Council is satisfied that no reasonable grounds exist for such person's registration to continue, the registration must be cancelled and the registered person notified accordingly.

(4) The Council must, at the written request of any registered person, remove such person's name from the register, but if an investigation into an alleged improper conduct by such a registered person is in progress or is to be held, such removal must not be made until any resultant misconduct proceedings have been concluded.

(5) A person who was previously registered in terms of section 13(4) and -

(a) whose registration was cancelled in terms of subsection (1)(c); or

(b) resigned; or

(c) wishes to be registered in a different category,

may apply for re-registration.

(6) If a person contemplated in subsection (5), has paid the application, registration and arrear fees, subscriptions, recovery expenses and penalties, if any, as may be determined in rules, the Council must, subject to the provisions of this Act, re-register such person in the appropriate category and/or branch.

#### **Return of registration certificate**

**15.** (1) Any person whose registration has been cancelled must return his or her certificate of registration to the Registrar within 30 days from the date upon which he or she is directed by the Registrar in writing to do so.

(2) If the person cannot return the certificate as required, he or she must provide written reasons, by way of an affidavit to the Registrar's satisfaction, for the inability to return the certificate.

### **Identification of geomatics profession work**

**16.** (1) The Council must consult with all voluntary associations and any person, body or industry determined by the Minister regarding the identification of certain areas of geomatics work to be reserved for registered persons, including work which may fall within the scope of any other profession.

(2) The Minister may, upon advice from the Council after the consultation referred to in subsection (1), prescribe the geomatics work to be reserved for each category in respect of each branch of registered persons.

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

- (a) perform any kind of work reserved for any category of registered persons;
- (b) pretend to be, or in any manner hold himself or herself out or allow himself or herself to be held out as, a person registered in terms of this Act; or
- (c) use the name of any registered person or any name or title referred to in section 13(1).

(4) Notwithstanding the provisions of subsections (2) and (3), the Minister may prescribe certain areas of work which may be carried out by a person registered or lawfully appointed in terms of other legislation to carry out such work, without subjecting such person to the prohibitions contained in subsection (3).

(5) The provisions of this section must not be construed as prohibiting any person from performing work reserved, if such work is performed in the service of or by order of and under the direction, control, supervision of or in a formal association with a

registered person entitled to perform that reserved work, on the condition that such a registered person assumes responsibility for any work so performed.

## **CHAPTER 4**

### **VOLUNTARY ASSOCIATIONS**

#### **Recognition of voluntary associations**

17. (1) Any voluntary association which has as its main object the promotion and protection of the interests of the geomatics profession and applies its profit, if any, in promoting its main object, may apply to the Council to be recognised as a voluntary association.

(2) The Council must, within 90 days after its first meeting, make rules in respect of the requirements and procedures for the recognition of a voluntary association.

(3) The Council may, if the voluntary association complies with the rules made under section 30(2), recognise that association as a voluntary association and issue to it a certificate of recognition.

(4) A certificate of recognition is valid for a period of five years from the date of issue on condition that the voluntary association continues to comply with the said rules.

(5) A voluntary association must, at least three months prior to the expiry of its certificate of recognition, apply to the Council for the renewal thereof in the manner determined in rules.

(6) A voluntary association whose certificate has lapsed must, on the written request of the Registrar, return the certificate to the Council within 30 days from the date upon which it is directed by the Registrar to do so, unless it provides written reasons, by way of an affidavit to the Registrar's satisfaction, for not returning the certificate.



## CHAPTER 5 PROFESSIONAL CONDUCT

### Code of conduct

18. (1) The Council must, within 90 days from the date of its first meeting and in consultation with the Minister, prepare a code of conduct for registered persons which must be published in the *Gazette*.

(2) The code of conduct may contain different provisions for different categories of registered persons.

(3) The Council must take all reasonable steps to –

- (a) publicise the existence of the code of conduct developed by the Council in terms of this Act;
- (b) inform members of the public of the contents of the code of conduct including its enforcement procedures; and
- (c) inform members of the public of how and where to obtain a copy of the code of conduct

(4) The Council may amend the code of conduct from time to time in consultation with the Minister and any amendment must be published in the *Gazette*.

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

(6) In addition to the code of conduct, a registered person is required -

- (a) not to deliberately do anything calculated to unjustly or unfairly injure the reputation of another registered person;
- (b) to abstain from direct or indirect participation as an advisor or decision-maker in any matter in which he or she has a personal interest, and to leave any chamber in which such matter is under

deliberation, unless the personal interest has been made a matter of public record, his or her employer, if any, has given written approval, and the public official, public agency or body with jurisdiction to rule on ethical matters, has expressly authorised his or her participation;

- (c) not to solicit prospective clients or employment through use of false or misleading claims, harassment or duress;
- (d) not to use the power of any office to seek or obtain special advantage that is not in the public interest nor any special advantage that is not a matter of public knowledge;
- (e) not to use confidential information acquired in the course of his or her duties to further a personal interest;
- (f) not to disclose confidential information acquired in the course of his or her duties, unless required by law to do so or by circumstances to prevent substantial injury to third persons;
- (g) not to commit a deliberately wrongful act which reflects adversely on the geomatics profession or seek business by stating or implying that he or she is prepared, willing or able to influence decisions by improper means;
- (h) to accurately represent his or her qualifications to practice geomatics as well as his or her education and affiliations;
- (i) to respect the rights of every person and not to violate any right of another person protected by the Constitution of the Republic of South Africa, 1996; and
- (j) to accept personal responsibility and liability for geomatics work performed by or under the supervision, direction or control of such registered person.

- (7) A registered person is guilty of improper conduct if he or she -
- (a) performs work reserved for registered persons in connection with any matter which is the subject of a dispute or litigation, on condition that payment for such work will be made only if such dispute or litigation ends in favour of the person for whom such work is performed;
  - (b) performs work reserved for registered persons during any period for which he or she is suspended under this Act;
  - (c) commits an offence in the performance of his or her work as a registered person;
  - (d) accepts remuneration for the performance of work reserved for registered persons from any person other than his or her client or employer, without the prior approval of such client or employer; or
  - (e) fails to comply with the provisions of this Act or anything prescribed or any rule made under this Act.

#### **Investigation of charge of improper conduct**

**19.** (1) The Council must appoint one or more investigating officers as it deems fit and which officers meet the criteria as may be prescribed by the Minister, to investigate any charge of improper conduct.

- (2) The Council must, as soon as is reasonably possible, when -
- (a) a complaint, charge or allegation of improper conduct has been brought against a registered person; or
  - (b) it has reasonable grounds to suspect that a registered person is guilty of improper conduct,

refer the matter for investigation.

- (3) The investigating officer must at the request of the Council -
  - (a) investigate the matter; and
  - (b) obtain evidence to determine whether or not in his or her opinion the person concerned should be charged or not, and if so, recommend to the Council what the appropriate charge should be.
- (4) An investigating officer may not question the registered person concerned unless the investigating officer informs that person that he or she -
  - (a) has the right to be assisted or represented by another registered person or a legal representative; and
  - (b) is not obliged to make any statement and that any statement made may be used in evidence against him or her.
- (5) The investigating officer must, after the conclusion of the investigation, submit a report, together with his or her recommendations, to the Council regarding any matter referred to the Council in terms of this section.

### **Steps after investigation**

**20.** (1) The Council must, after considering the investigation report, charge the registered person with improper conduct if the Council is convinced that sufficient grounds exist for such a charge.

(2) The Council must, by hand or registered mail, deliver to a registered person who is charged with misconduct, a charge sheet setting out the details and nature of the charge together with a copy of the investigation report.

(3) The Council must inform the registered person charged in terms of subsection (1) -

- (a) that he or she must, in writing, admit or deny the charge;

- (b) 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
  - (c) of the period, which must be reasonable, within which his or her plea in terms of paragraph (a) and explanation in terms of paragraph (b) must be submitted to the Council.
- (4) The Council may, if a registered person charged in terms of subsection (1) -
- (a) has admitted that he or she is guilty of the charge; and
  - (b) the sanctions contemplated in section 23(4)(a)(i) and (ii) may be imposed in respect of such charge,

find such registered person guilty, without referring the charge to a disciplinary tribunal, and impose an appropriate sanction as provided for in section 23(4).

(5) The acquittal or the conviction of a registered person by a court of law on a criminal charge, is not a bar to conduct 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.

#### **Appointment of disciplinary tribunal**

21. (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) admits the charge and the sanctions contemplated in section 23(4)(a)(iii) and (iv) may be imposed in respect of such charge.
- (2) The disciplinary tribunal must consist of at least -

- (a) two registered persons or Council members;
- (b) a person qualified in law and who has at least five years experience in the legal profession; and
- (c) two persons with specialised knowledge of matters concerning the particular charge.

(3) The members of the disciplinary tribunal must amongst themselves elect a chairperson to chair the proceedings.

### **Disciplinary hearing**

**22.** (1) The Registrar performs the administrative functions necessary to support the functioning of a disciplinary tribunal.

(2) (a) The disciplinary tribunal may, for the purposes of a hearing, summons the person charged or 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 summons or subpoena issued in terms of paragraph (a) -

- (i) must be in the form prescribed by the Minister in consultation with the Minister of Justice and Constitutional Development;

- (ii) must be signed by the chairperson of the disciplinary tribunal or, in his or her absence, any member of the disciplinary tribunal assigned by the chairperson; and
- (iii) must be served on the subpoenaed person personally or by sending it by registered mail.

(3) The disciplinary tribunal may retain a book, document or object produced in terms of subsection (2)(a)(ii) for the duration of the hearing.

(4) The chairperson of the disciplinary tribunal may call upon and administer an oath to, or take an affirmation from, any witness.

(5) A witness -

- (a) may request that the names of the members of the disciplinary tribunal be made available to him or her;
- (b) may not -
  - (i) refuse to be sworn in or to make an affirmation; or
  - (ii) knowingly make a false statement or give a false answer; and
- (c) may not without sufficient cause fail to -
  - (i) attend the hearing including any postponed hearing at the place and time specified in a subpoena or by the chairperson of a disciplinary tribunal, and must remain in attendance until excused from further attendance by such chairperson;
  - (ii) answer all questions lawfully put to him or her, fully and satisfactorily to the best of his or her knowledge; or

- (iii) produce any book, document or object in his or her possession or custody or under his or her control, which he or she is required to produce.

(6) No person may unlawfully prevent another person from complying with a subpoena or from giving evidence or producing a book, document or object which he or she is required to give or produce.

(7) The law of privilege in relation to evidence, including the production of a book, document or object, as applicable in a civil proceeding in a court of law, applies with the necessary changes to a proceeding before a disciplinary tribunal.

(8) A record of evidence which was presented to a tribunal in a prior hearing which is relevant to a charge before a subsequent tribunal, is admissible in a hearing before such subsequent tribunal without further evidence being led, if the chairperson of such prior tribunal certifies it to be a full and true record and that the prior proceedings were lawful and procedurally fair.

(9) 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.

(10) The Minister may, in consultation with the Minister of Justice and Constitutional Development, prescribe procedures not inconsistent with this Act, for the effective performance of the functions of a disciplinary tribunal.

(11) A person appearing before the disciplinary tribunal on account of a charge of improper conduct is entitled to legal representation at the hearing.

### **Proceedings after hearing**

**23.** (1) After the conclusion of the hearing, the disciplinary tribunal must -



- (a) within 30 days, decide whether or not the registered person charged, is guilty of improper conduct; and
- (b) within 14 days after its decision, in writing inform the Council of its finding and the reasons therefore.

(2) The Council must -

- (a) within 30 days, after receipt of the disciplinary tribunal's decision, in writing inform the registered person of the tribunal's finding; and
- (b) inform the registered person of his or her right of appeal in terms of section 27.

(3) The Council or a registered person found guilty of improper conduct in terms of this Act, may adduce evidence, including calling witnesses, to establish any aggravating or mitigating circumstances which must be considered by the disciplinary tribunal in determining an appropriate sanction.

(4) If the registered person charged is found guilty of improper conduct, or if such person confesses during the proceedings that he or she is guilty of the offence, the disciplinary tribunal may, when informing the Council of its finding as contemplated in subsection (1)(b), recommend that the Council -

- (a) caution or reprimand the registered person; or
- (b) impose on the registered person a fine not exceeding an amount as prescribed by the Minister in consultation with the Minister of Justice and Constitutional Development; or
- (c) suspend the registration of the registered person concerned for a period not exceeding one year; or
- (d) cancel the registration of the registered person concerned.

(5) The disciplinary tribunal may -

- (a) recommend more than one of the sanctions referred to in subsection (4); and
  - (b) order the registered person charged to pay the cost of the investigation or the disciplinary hearing.
- (6) The Council -
  - (a) may give effect to a recommendation of the disciplinary tribunal;
  - (b) must publish the outcome of a disciplinary hearing in its annual report and may publish it in any other manner it considers appropriate; and
  - (c) must instruct the Registrar to endorse the register referred to in section 8(1)(b)(ii) to record the charge, the finding of guilt and the sanction and, if applicable, the removal of the name of the registered person found guilty, from such register.
- (7) Any court with civil jurisdiction may on the application of the disciplinary tribunal or the Council, grant an order for the recovery from the registered person charged of any amount he or she failed to pay in accordance with a sanction imposed in terms of this Act, together with any interest thereon, after which the order so granted has the effect of a civil judgment of that court and must be executed in accordance with the law applicable in that court.
- (8) The Registrar must keep a record of the proceedings of every tribunal hearing.

## **CHAPTER 6**

### **APPEALS**

#### **Establishment of Appeal Board**

24. (1) There is hereby established an Appeal Board with jurisdiction to hear appeals in terms of this Act.

(2) The Appeal Board consists of the following members appointed in writing by the Minister:

- (a) Three registered persons who have been practising or teaching geomatics for a period of not less than five years; and
- (b) two members of the public of whom at least one person is qualified in law and has at least five years experience in the legal profession.

(3) The Minister must appoint, from the members of the Appeal Board, a chairperson, a deputy chairperson and an alternate chairperson of the Appeal Board.

(4) When the chairperson is unable to perform the functions of the Appeal Board, they shall be performed by the deputy chairperson or, if he or she is also unable to do so, by the alternate chairperson.

(5) The Minister must take into account, amongst other things, the principles of transparency and representivity when members of the Appeal Board are appointed.

(6) The provisions of section 4(4), (5), (6), (9), (11), (12), and (13)(a) and (b) apply, with the necessary changes, to the nomination of candidates, the selection of appointees, the appointment of members to the Appeal Board and the term of office for membership thereof.

(7) The grounds contemplated in section 5(1) and (2) apply, with the necessary changes, to the appointment of persons to and the vacation of office by members of the Appeal Board, provided that a member must vacate his or her office if such member has, without leave of the chairperson of the Appeal Board, been absent from two or more consecutive sittings of the Appeal Board.

#### **Meetings, procedures and administration of Appeal Board**

25. (1) If the chairperson or deputy chairperson vacates his or her office, such vacation does not terminate his or her membership of the Appeal Board.

(2) An appeal must be heard by not fewer than three members of the Appeal Board, including the chairperson.

(3) A decision of the majority of the members of the Appeal Board present at any meeting, constitutes a decision of the Appeal Board.

(4) In the event of a deadlock at a hearing, the chairperson has a casting vote in addition to a deliberative vote.

(5) The Appeal Board must conduct appeals in accordance with the procedures prescribed by the Minister in consultation with the Minister of Justice and Constitutional Development.

(6) The Appeal Board must decide an appeal within 60 days after the appeal was lodged and inform the appellant and the Council, in writing, of its decision within 60 days after such decision has been made.

(7) The Appeal Board must keep a record of the proceedings of every sitting held in terms of this section.

(8) The Registrar performs the administrative functions necessary to support the functioning of the Appeal Board.

#### **Remuneration and allowances of members of Appeal Board**

**26.** The chairperson, deputy chairperson and other members of the Appeal Board, excluding any member who is in the full-time service of the State, must out of the funds of the Council be paid such remuneration and allowances as the Minister, with the concurrence of the Minister of Finance, may determine from time to time.

#### **Appeal against decisions of Council and disciplinary tribunal**

**27.** (1) An appeal may be lodged with the Appeal Board by -

- (a) a registered person found guilty of improper conduct who is aggrieved by a finding of the disciplinary tribunal or the sanction imposed, or both;
- (b) a person aggrieved by a decision of the Council in terms of sections 13 or 14; or
- (c) a person objecting to a rule published in terms of section 30(4).

(2) The appeal must be lodged in the manner and upon payment of the fees determined in rules, within 30 days after the Council or disciplinary tribunal has informed the appellant of its decision or the date of publication of a rule in the *Gazette* and the Appeal Board must consider and decide the appeal.

(3) The Appeal Board may -

- (a) dismiss an appeal against a finding or sanction of the disciplinary tribunal or the decision of the Council or rule, and confirm the relevant finding, sanction, decision or rule;
- (b) uphold an appeal, and set aside or vary, such a finding, sanction, decision or rule, wholly or in part and must in writing inform the appellant and the Council of its decision and the reasons thereof; or
- (c) award costs as may be just.

### **Appeal to High Court of South Africa**

28. (1) An appellant aggrieved by a decision of the Appeal Board may through the Registrar request the Appeal Board in writing to furnish him or her within 30 days after receipt of the request, with the Appeal Board's reasons for the decision.

(2) The appellant may, after notice has been given to the Appeal Board, lodge an appeal with the High Court of South Africa within 30 days from the date of the decision of the Appeal Board or receipt of the reasons for the Appeal Board's decision, whichever is the later.

(3) The Council may, after notice has been given to the Appeal Board, appeal to the High Court of South Africa against any decision of the Appeal Board in terms of section 27(3)(b) or (c) within 30 days from the date of the decision of the Appeal Board.

(4) The rules of the High Court governing appeals apply to an appeal contemplated in this section to the extent that such rules are not inconsistent with this section.

## **CHAPTER 7 GENERAL**

### **Professional fees**

29. (1) The Council may annually, but must at least every three years, after consultation with voluntary associations and with the concurrence of the Minister and the Minister of Finance, determine guideline professional fees and publish such fees by notice in the *Gazette*.

(2) The Council must, before determining the guideline fees in terms of subsection (1), publish by notice in the *Gazette* a draft of the proposed guideline fees, calling on interested persons to submit comments in writing within a period of not less than 30 days after such publication.

(3) If the Council alters the proposed guideline professional fees as a result of any comment received, it needs not publish those alterations before determining the said fees.

### **Regulations and rules**

30. (1) (a) The Minister may, by notice in the *Gazette*, make regulations, not inconsistent with this Act, with regard to -

- (i) any matter that he or she is required or permitted to prescribe in terms of this Act;

- (ii) any matter necessary for or incidental to the exercise of the powers and the performance of the functions of the Council;
- (iii) any matter to be prescribed upon advice of the Council; and
- (iv) any other procedural or administrative matter necessary to give effect to the provisions of this Act.

(b) The Minister must, before making any regulation under subsection (1), publish a draft of the proposed regulation, repeal or amendment, by notice in the *Gazette*, calling on interested persons or voluntary associations to comment on the draft, in writing, within a period not less than 30 days from the date of publication of the notice.

(c) If the Minister alters the draft regulations as a result of any comment received, he or she needs not publish those alterations before making the regulations.

(2) The Council may, in consultation with the Minister and by notice in the *Gazette*, make rules not inconsistent with this Act, with regard to -

- (a) any matter the Council is required or permitted to determine in terms of this Act;
- (b) the form of process and the procedure at or in connection with the proceedings of a disciplinary tribunal or the Appeal Board;
- (c) the representation of any party before the Appeal Board; and
- (d) matters necessary for or incidental to the exercise of the powers and performance of the functions of a disciplinary tribunal and the Appeal Board.

(3) (a) Before the Council makes, repeals or amends any rule under this section, it must publish by notice in the *Gazette* a draft of the proposed rule, repeal or amendment calling on interested persons and voluntary associations to submit comment, in writing, within a period not 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 received, it needs not publish those alterations before making the rule.

(4) The Council may, if circumstances necessitate the immediate publication of a rule, publish that rule by notice in the *Gazette* without consultation as contemplated in subsection (3): Provided that any person who objects to the said rule may -

(a) comment on the rule after such publication; or

(b) appeal to the Appeal Board against such a rule.

### **Procedure and evidence**

31. (1) Any register referred to or implied in this Act serves as evidence of all matters which are required to or may be entered therein in terms of this Act.

(2) A certificate signed by the Registrar to the effect that an entry has or has not been made in a register or that any other thing by or under this Act has or has not been done, is evidence of the matters mentioned in that certificate.

(3) A copy of an entry in a register or a document in the custody of the Registrar or an extract from a register or from any such document, certified by the Registrar, must be admitted in evidence in any disciplinary tribunal, Appeal Board or court of law hearing without further proof or production of the original.

### **Rectification of errors**

32. The Minister may, if anything which is required to be done or performed in terms of this Act on or before a specified day or at a specified time or during a specified period, has not been done or performed, and the Minister is satisfied that such failure was due to an error or oversight and that it would not be to the detriment of any person affected by such failure and after that person has been informed of such failure, where applicable, authorise it to be done or performed on or before any other day or at any other time or during any other period, and anything done or performed during this period is of full force and effect and is deemed to have been lawfully done or performed in accordance with the provisions of this Act.



## **Liability**

**33.** (1) The Council or any member, committee or employee thereof is not liable in respect of legal proceedings in relation to an 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) fails to perform an act; or

(c) informs the Council or any other appropriate authority of an act or failure to perform an act, by any other person,

which act endangers or is likely to endanger the safety or health of the public or fellow employees, is not liable with respect to any legal proceedings in relation to a refusal, failure or information contemplated in this subsection.

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

## **Delegation of powers**

**34.** (1) The Minister may delegate any of his or her powers in terms of this Act, excluding the power to appoint members of the Council and the Appeal Board and the power to make regulations, to the Director-General or any other official of the Department.

(2) The Council may delegate any of its powers or duties in terms of this Act, excluding the power to make rules or to impose a sanction as contemplated in section 23(6)(a), to a member of the Council, a committee, the chairperson of a committee, the Registrar or any other employee of the Council.

**Offences, penalties and prohibitions**

**35.** (1) Any person or body who contravenes the provisions of sections 13(2) or (5), 15, 16(3), 17(6) or 22(5)(b) or (c) or (6) is guilty of an offence.

(2) Any person convicted of an offence of contravening the provisions of sections 13(2) or (5), or 16(3) is liable to a maximum fine equal to double the remuneration payable to him or her for work done during the period of such contravention or to a maximum fine equal to the fine calculated according to the ratio determined for a period of three years imprisonment in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991).

(3) Any person or organisation who is convicted of an offence of contravening the provisions of section 15 or 17(6) of the Act, is liable to a maximum fine equal to the fine calculated according to the ratio determined for one month's imprisonment in terms of the Adjustment of Fines Act, 1991.

(4) Any person who is convicted of an offence of contravening the provisions of section 22(5)(b) or (c) or (6) is liable to a maximum fine equal to the fine calculated according to the ratio determined for three years imprisonment in terms of the Adjustment of Fines Act, 1991.

(5) In addition to and independently of any criminal proceedings contemplated or instituted against a person or body referred to in subsection (1), the Council may, in any court having jurisdiction, institute civil proceedings against such person or body in order to compel compliance with the relevant provisions of this Act or to interdict any contravention thereof or for any related purpose.

(6) Any person who is not registered in terms of the provisions of this Act and who performs any work which is only to be performed by any such registered person or who pretends to be a registered person in any manner whatsoever, is guilty of an offence and liable to a maximum fine equal to the fine calculated according to the ratio determined for three years imprisonment in terms of the Adjustment of Fines Act, 1991.

(7) Any registered person is personally responsible and liable for geomatics work performed by or under the supervision, direction or control of such person.

(8) Any present and past directors of any company that has been incorporated and registered under the Companies Act, 1973 (Act No. 61 of 1973), and past and present members of any close corporation that has been registered under the Close Corporations Act, 1984 (Act No. 69 of 1984), who performs any geomatics work referred to in this Act, are liable jointly and severally with the company or close corporation for the debts and liabilities of the company or close corporation contracted during the period of their membership of the company or close corporation.

### **Transitional provisions**

**36.** (1) For the purposes of this section, 'effective date' means the date of the first meeting of the Council.

(2) The South African Council for Professional and Technical Surveyors established by section 2 of the Professional and Technical Surveyors' Act, 1984 (Act No. 40 of 1984), continues to exist and may exercise its powers and perform its duties and functions after the commencement of this Act until the effective date, on which date that council ceases to exist.

(3) Any person who, at the commencement of this Act, is registered in terms of the Professional and Technical Surveyors' Act, 1984 -

- (a) as a professional surveyor is deemed to be registered under this Act as a geomatics professional;
- (b) as a professional land surveyor, is deemed to be registered under this Act as a geomatics professional in the branch of land surveying and such person's name must be entered in the register for professional land surveyors referred to in section 8(1)(b)(ii)(bb);
- (c) as a professional surveyor in training, is deemed to be registered under this Act as a candidate geomatics practitioner;
- (d) as a surveyor, is deemed to be registered under this Act as a geomatics technologist;

- (e) as a survey technician, is deemed to be registered under this Act as a geomatics technician; and
- (f) as a survey technician in training, is deemed to be registered under this Act as a candidate geomatics practitioner,

and must, within 90 days from the date of the first meeting of the Council, be issued with the appropriate registration certificate.

(4) From the effective date, all rights, obligations, assets and liabilities acquired or incurred by the South African Council for Technical and Professional Surveyors, 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.

(5) Any act performed, decision taken, or rule made or purported to have been so performed, taken or made in terms of the Professional and Technical Surveyors' Act, 1984, remains valid unless substituted by an act performed, decision taken or rule made under this Act and provided it is not inconsistent with the provisions of this Act.

(6) Any notice issued or exemption granted by the Minister in terms of the Professional and Technical Surveyors' Act, 1984 (Act No. 40 of 1984), remains valid unless substituted by a notice issued or exemption granted under this Act.

(7) From the effective date, any register maintained in terms of the Professional and Technical Surveyors' Act, 1984, is incorporated in and forms part of the registers to be maintained in terms of section 8(1)(b)(ii) of this Act.

(8) Any action taken in terms of the Professional and Technical Surveyors' Act, 1984, which is pending at the commencement date of this Act, must be finalised in terms of that Act as if it had not been repealed.

(9) The Education Advisory Committee established by section 11 of the Professional and Technical Surveyors' Act, 1984 (Act No. 40 of 1984), continues to exist and may exercise its powers and perform its duties and functions after the commencement of this Act until the Education and Training Committee referred to in section 6(2) of this Act has been established.

**Repeal and amendment of laws**

37. (1) The laws mentioned in Schedule 1 to this Act are hereby repealed to the extent set out in the third column of the Schedule.

(2) The laws mentioned in Schedule 2 to this Act are hereby amended to the extent set out in the third column of the Schedule.

**Act binding on State**

38. This Act binds the State.

**Short title and commencement**

39. This Act is called the Geomatics Profession Act, 2011, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

## SCHEDULE 1

Repeal of laws

[Section 37(1)]

### Laws enacted by Parliament

No. and year of law	Short title	Extent of repeal
Act 40 of 1984	Professional and Technical Surveyors' Act, 1984	The whole
Act 37 of 1986	Professional Land Surveyors' and Technical Surveyors' Amendment Act, 1986	The whole
Act 66 of 1987	Professional Land Surveyors' and Technical Surveyors' Amendment Act, 1987	The whole
Act 34 of 1993	Professional Land Surveyors' and Technical Surveyors' Amendment Act, 1993	The whole

## SCHEDULE 2

### Amendment of laws

[Section 37(2)]

### Laws enacted by Parliament

No. and year of law	Short title	Extent of amendment
Act 8 of 1997	Land Survey Act, 1997	<p>(a) By the substitution in section 1 for the definition of "land surveyor" of the following definition:</p> <p>" 'land surveyor' means a person registered as a professional land surveyor in terms of the <b>[Professional and Technical Surveyors' Act, 1984 (Act No. 40 of 1984)</b>, and whose name is entered in the register referred to in section 7(4)(a) of that Act] <u>Geomatics Profession Act, 2011</u>";</p> <p>(b) by the substitution in section 1 for the definition of "'supervise' or 'supervision'" for the words preceding paragraph (a) of the following words:</p> <p>" 'supervise' or 'supervision'" when used in relation to a survey and the field operations by any person registered as a professional surveyor, <b>[professional surveyor in training]</b> <u>geomatics technologist</u>, or <b>[technical surveyor]</b> <u>geomatics technician</u> in terms of the <b>[Professional and Technical Surveyors' Act 1984 (Act No. 40 of 1984)]</b> <u>Geomatics Profession Act, 2011</u>, (in this definition referred to as 'an assistant', means –";</p> <p>(c) by the substitution in section 2A for subsection (1) of the following subsection:</p> <p>"(1) The Minister shall, subject to section 50 and the Public Service Act, 1994 (Proclamation 103 of 1994), appoint an officer, who shall be a person registered in terms of section <b>[20]</b> <u>13</u> of the <b>[Professional Technical Surveyors' Act, 1984 (Act 40 of 1984)]</b> <u>Geomatics Profession Act, 2011</u>, as a <u>geomatics professional</u>, to be styled the Chief Director: Surveys and Mapping.";</p>



No. and of year law	Short title	Extent of amendment
		<p>(d) by the substitution in section 9(1) for paragraph (c) of the following paragraph:</p> <p>“(c) three land surveyors nominated by the South African <u>Geomatics</u> Council <b>[for Professional and Technical Surveyors]</b> established by section [2] 3 of the <b>[Professional and Technical Surveyors’ Act, 1984 (Act 40 of 1984)]</b> <u>Geomatics Profession Act, 2011.</u>”;</p> <p>(e) by the substitution in section 9 for subsection (3) of the following subsection:</p> <p>“(3) If the South African <u>Geomatics</u> Council <b>[for Professional and Technical Surveyors]</b> fails to nominate –</p> <p>(a) a member for the purposes of subsection (1)(c); or</p> <p>(b) an alternate member referred to in subsection (2),</p> <p>the Minister shall appoint a land surveyor as a member or alternate member, and any member or alternate member so appointed shall be deemed to have been nominated in terms of subsection (1)(c) or (2) as the case may be.”;</p> <p>(f) by the substitution in section 9(4) for paragraph (b) of the following paragraph:</p> <p>“(b) A member of the board referred to in subsection (1)(c) shall hold office for a term determined by the South African <u>Geomatics</u> Council <b>[for Professional and Technical Surveyors]</b> but not exceeding two years, but that Council may, at any time remove that member from office on grounds of misbehaviour, incapacity or incompetence.”;</p> <p>(g) by the substitution in section 9 for subsection (5) of the following subsection:</p> <p>“(5) Should a member of the board die or vacate office before the expiration of his or her term of office, the Minister or the South African <u>Geomatics</u> Council <b>[for Professional and Technical Surveyors]</b>, as the case may be,</p>



No. and of year law	Short title	Extent of amendment
		<p>may appoint a person to fill the vacancy for the unexpired part of the term for which the member was appointed or nominated.”; and</p> <p>(h) by the substitution in section 12(2) for paragraph (a) of the following paragraph:</p> <p>“(a) refer any complaint or allegation of improper conduct to the South African <u>Geomatics Council</u> <b>[for Professional and Technical Surveyors]</b> established by section <b>[2] 3</b> of the <b>[Professional and Technical Surveyors’ Act, 1984 (Act 40 of 1984)]</b> <u>Geomatics Profession Act, 2011</u>, for <b>[enquiry]</b> <u>investigation</u> in terms of section <b>[29] 19</b> of that Act; or”.</p>