



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$1.89

WINDHOEK - 26 June 2001

No.2561

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Government Notice

MINISTRY OF REGIONAL AND LOCAL GOVERNMENT AND HOUSING

No. 126 2001

TOWN AND REGIONAL PLANNERS AND TOWN AND REGIONAL PLANNERS IN TRAINING REGULATIONS: TOWN AND REGIONAL PLANNERS ACT, 1996

The Minister of Regional and Local Government and Housing, under section 25 of the Town and Regional Planners Act, 1996 (Act No. 9 of 1996) and on the recommendation of the Council, has made the regulations set out in the Schedule.

SCHEDULE

Definitions

1. In these regulations any word or expression defined in the Act has that meaning, and -

“committee of preliminary enquiry” means a committee established by the Council under section 10 of the Act;

“the Act” means the Town and Regional Planners Act, 1996 (Act No. 9 of 1996); and

“town and regional planning work” means a kind of work reserved for town and regional planners set out in Annexure B.

Qualifications for registration

2. For the purposes of registration of town and regional planners and town and regional planners in training, the degrees, diplomas, certificates or credential to be held from educational or training institutions as required by section 14(1)(b) of the Act are set out in Annexure A.

Rules of conduct

3. (1) A town and regional planner or town and regional planner in training must -

- (a) uphold the dignity of the profession;
- (b) carry on his or her profession in a strict and trustworthy manner; and
- (c) regulate his or her conduct in a manner consistent with the established tradition of the profession.

(2) A town and regional planner or town and regional planner in training may not -

- (a) discriminate on grounds of race, sex, creed, religion, disability or age in all his or her professional activities;
- (b) make or subscribe to any statement or report which is contrary to his or her own professional opinion; and
- (c) knowingly enter into any agreement which requires him or her to make or subscribe to any statement or report which is contrary to his or her own professional opinion.

(4) A town and regional planner or town and regional planner in training must take all reasonable precautions to ensure that no conflict of interests arises in his or her work relating to the carrying out of his or her profession, and that where such conflict arises he or she must cause it to be reported forthwith to the Council which must consider the report and take proper actions, if any.

(5) A town and regional planner or town and regional planner in training involved in any town and regional planning work may not disclose to any person any confidential information obtained in the course of that work, or use such information to his or her own advantage or that of his or her employer or client.

(6) A town and regional planner or town and regional planner in training must disclose to his or her employer or client any donation, discount, or commission received from any person in connection with his or her particular work.

(7) A town and regional planner or town and regional planner in training who is preparing a town planning scheme, regional planning scheme or any other planning scheme or acting as a consultant in connection with the preparation of such scheme may not buy fixed property in the area to which such planning scheme relates without the approval of the commissioning authority and the Council.

(8) A town and regional planner or town and regional planner in training who has been asked to proceed with town and regional planning work which to his or her knowledge another person was previously engaged, he or she must notify the fact to that person, if possible.

(9) A town and regional planner or town and regional planner in training may not obtain or attempt to obtain an appointment to do town and regional planning work by means of paying or offering to pay monetary or other valuable consideration to any person, or by any other improper means.

(10) A town and regional planner or town and regional planner in training may not perform, without the approval of the Council, any town and regional planning work for which he or she has accepted the assessorship in any proposed competition for that work.

(11) A town and regional planner or town and regional planner in training may apply to the Council for assistance in respect of any matter affecting in principle the rights, practice or status of town and regional planners in general.

Kinds of work reserved for town and regional planners

4. The kinds of work of town and regional planning nature reserved for town and regional planners in terms of section 13(1)(a) of the Act are set out in Annexure B.

Town and regional planner in private practice to be registered

5. A town and regional planner in private practice, whether natural or legal person, who performs town and regional planning work in Namibia is required to register with an institute.

Offers and tenders for town and regional planning work

6. Only a town and regional planner registered with an institute may submit offers and tenders invited or advertised for town and regional planning work in Namibia.

Remuneration for town and regional planning work

7. (1) A town and regional planner and town and regional planner in training must be remunerated by salary or fees for town and regional planning work, or by any other remuneration as the Council, on application by such planner, may approve.

(2) A town and regional planner or town and regional planner in training may not -

- (a) attempt to obtain an appointment to do town and regional planning work, or to supplant another person or compete with another person, by means of a reduction of fees or by other inducement;
- (b) charge less than the determined minimum fees for town and regional planning work; or
- (c) give an impression, directly or indirectly, that he or she is prepared to do town and regional planning work at less than the determined minimum fees.

(3) A town and regional planner or town and regional planner in training may perform town and regional planning work without remuneration.

Advertising

8. (1) A town and regional planner may not publish any advertisement which -
- (a) makes derogatory comparisons of services available to other town and regional planners or town and regional planners in training;
 - (b) misrepresents the service available to him or her or another person;
 - (c) is illegal, indecent, dishonest or untruthful;
 - (d) exaggerates his or her service; or
 - (e) brings the profession into disrepute.

(2) A town and regional planner in training may not advertise his or her service to perform town and regional planning work.

Enquiry into cases of improper conduct

9. (1) A complaint against any person registered under the Act must be in writing and signed by the person laying it, and be addressed to the chairperson of the Council.

(2) On receipt of a complaint the chairperson of the Council may call for further information from the complainant to be furnished either by affidavit or otherwise as the chairperson may require.

(3) The chairperson of the Council must in writing advise the registered person concerned of the complaint and the particulars thereof and request a written explanation in the form of an affidavit or otherwise from him or her within a period specified by the chairperson, being not less than 14 days from the date of receipt thereof, and warn that person that such explanation may be used in evidence against him or her.

(4) Despite subregulations (2) and (3), the chairperson of the Council may refer the complaint direct to the committee of preliminary enquiry for investigation.

(5) If further information or an explanation has been called for under subregulation (2) or (3), the chairperson of the Council, on receipt of such information or explanation, must submit the complaint and such information or explanation to the committee of preliminary enquiry for investigation.

(6) The chairperson of the Council or the chairperson of the committee of preliminary enquiry may at any stage cause further investigation to be made and seek such legal advice or other assistance as may be necessary in relation to the complaint.

(7) Upon investigation of a complaint, the committee of preliminary enquiry may recommend to the Council -

- (a) that no disciplinary enquiry should be held, if it appears to the committee that the complaint, even if substantiated, does not constitute improper conduct, or for any other reason should not be the subject of an enquiry; or
- (b) that a disciplinary enquiry should be held into the conduct of the registered person.

(8) The chairperson of the Council or disciplinary committee, as the case may be, must appoint any person as initiator to state the case against the person charged and lead evidence in support of the charge, and to cross-examine witnesses called to give evidence against the charge.

Procedure at enquiry into improper conduct

10. (1) An enquiry into cases of improper conduct under section 22 of the Act may be conducted by the Council or disciplinary committee established by the Council under section 10 of the Act to enquire into cases of improper conduct and make recommendations to the Council in connection therewith.

- (2) (a) The person charged or, if he or she is not present, his or her representative, must be asked by the chairperson of the Council or disciplinary committee, as the case may be, to plead guilty or not guilty to the charge and the plea must be so recorded.
- (b) In the absence of the person charged a plea of guilty is entered only if that person has clearly and in writing under his or her own signature informed the chairperson of the Council or disciplinary committee, as the case may be, accordingly prior to or at the commencement of the enquiry.

- (c) If the person charged or his or her representative refuses or fails to plead to the charge it must be so recorded and a plea of not guilty be entered, and a plea so entered has the same effect as if it had so been pleaded by that person.
- (3) If a plea of guilty is entered the Council or disciplinary committee, as the case may be, must decide whether or not evidence is to be led and if a plea of not guilty is entered evidence must be led.
- (4) (a) The initiator must be given the opportunity of stating the case against the person charged and of leading evidence in support thereof, thereafter the person charged may state his or her case and lead evidence in support thereof.
- (b) If the person charged is neither present nor represented at the enquiry his or her written defence, statements made by him or her or on his or her behalf or explanations, if any, constitutes his or her defence and must be submitted to the Council or disciplinary committee, as the case may be.
- (c) The case of the initiator and the person charged must be closed after evidence has been led as contemplated in paragraph (a).
- (5) The chairperson of the Council or disciplinary committee, as the case may be, may allow further evidence to be led or witnesses to be recalled by either the initiator or the person charged or by both after their cases have been closed.
- (6) (a) After the evidence of a witness has been given, the other party may cross-examine that witness and thereafter the chairperson and members of the Council or disciplinary committee, as the case may be, may put questions to the witness.
- (b) Further cross-examination must be allowed on any matter arising from questions put by the chairperson or any other member of the Council or disciplinary committee, as the case may be.
- (c) After cross-examination of a witness, the party which called the witness may re-examine that witness, but re-examination is confined to matters raised in cross-examination and questions posed in terms of paragraph (a).
- (7) (a) Oral evidence must be taken on oath or affirmation administered by the chairperson of the Council or disciplinary committee, as the case may be.
- (b) Written evidence given by way of affidavit or a solemn declaration by a witness who is not personally present is admissible with the consent of the opposing party.
- (c) An appropriately authenticated copy of the record of proceedings before a court of law is on its mere production admissible as evidence at an enquiry and any non-rejected evidence reflected in such record constitutes *prima facie* evidence on any particular issue.
- (d) If practicable and if it appears necessary for the purposes of further examination or cross-examination, the Council or disciplinary committee, as the case may be, may call a witness whose evidence appears in a record referred to in paragraph (c).
- (8) After the parties have closed their cases the Council or disciplinary committee, as the case may be, may of its own accord call further witnesses or recall a witness to be questioned by the members of the Council or committee and thereafter by the initiator and the person charged or his or her representative.

- (9) (a) After all evidence has been given, the initiator may address the Council or disciplinary committee, as the case may be, on the evidence and any legal questions involved.
- (b) Thereafter the person charged or his or her representative likewise may address the Council or disciplinary committee, as the case may be, on the evidence and any legal question involved.
- (c) The initiator may reply to points of law raised by the person charged or his or her representative in his or her address.
- (10) (a) The Council or disciplinary committee, as the case may be, must after the conclusion of a case deliberate thereon *in camera*.
- (b) If the person charged is found not guilty -
- (i) the Council must advise him or her accordingly; or
- (ii) the disciplinary committee must advise him or her accordingly and report its decision to the Council.
- (c) The Council or disciplinary committee, as the case may be, may make a finding of not guilty to the charge even if a person charged has pleaded guilty.
- (d) If the person charged is found guilty -
- (i) the Council must announce its finding to the parties forthwith; or
- (ii) the disciplinary committee must announce its finding to the parties forthwith and make its recommendation to the Council in this regard.
- (11) (a) After a finding of guilty the initiator must furnish details to the Council or disciplinary committee, as the case may be, of any previous convictions of the person charged under the Act.
- (b) Proof of previous convictions referred to in paragraph (a) may be adduced by means of a certificate under the hand of the chairperson of the Council indicating the nature of the conviction, the date thereof and the penalty imposed.
- (c) If the person charged challenges the correctness of a certificate referred to in paragraph (b), a copy of the relevant record and a copy of the minutes of the Council under which the finding and the penalty had been confirmed must be produced, after which the fact of conviction must be regarded as proved.
- (12) (a) The initiator and the person charged or his or her representative, may make representations to the Council or disciplinary committee, as the case may be, and lead evidence, either orally or in writing, regarding a suitable penalty to be imposed, and may adduce evidence in support of the representations made.
- (b) If the person charged is neither present nor represented, any written representations, statements made by him or her or on his or her behalf or explanations, if any, which have a bearing on a penalty must be taken into account.
- (c) A witness called by a party in connection with a suitable penalty may be questioned by the other party and by the members of the Council or disciplinary committee, as the case may be.

- (13) (a) The Council or disciplinary committee, as the case may be, must deliberate *in camera* upon the penalty to be imposed.
- (b) The disciplinary committee may recommend any suitable penalty referred to in section 22(1)(b) of the Act upon any person found guilty of an improper conduct and -
- (i) must communicate the penalty to the parties forthwith;
 - (ii) must submit all relevant documents and the record of its enquiry together with its finding and recommendation to the Council;
 - (iii) the person charged may make, within 14 days after the finding of guilty by the disciplinary committee, concise written representations to the Council; and
 - (iv) if the Council decides to follow the recommendation of the disciplinary committee its decision must be communicated to the person charged forthwith.

(14) Any decision of the Council or disciplinary committee, as the case may be, in regard to any issue arising in connection with or in the course of an enquiry must be communicated to the person charged during such enquiry.

(15) The Council or disciplinary committee, as the case may be, of its own accord or at the request of the initiator or of the person charged or his or her representative, may adjourn an enquiry to such date, time and place as it may determine or as the chairperson of the Council or committee may communicate to the parties by registered post.

Consideration by Council of recommendation of disciplinary committee

11. (1) The Council may vary, confirm or refuse to confirm the recommendation of the disciplinary committee, or refer either the finding or penalty or both such finding and penalty to the disciplinary committee for further consideration and report.

(2) The finding and the penalty (if any) confirmed by the Council on the person charged must be communicated to the parties forthwith.

(3) If a penalty referred to in section 22(1)(b)(ii) and (iv) of the Act has been imposed on any person, the chairperson of the Council must cause to be published in the *Gazette* the name of the person, the contravention and the penalty imposed on him or her.

Public access to disciplinary enquiry

12. The proceedings at a disciplinary enquiry is open to the public, but -
- (a) any point arising in connection with or in the course of a disciplinary enquiry may be decided by the Council or disciplinary committee, as the case may be, *in camera*;
 - (b) any evidence to be adduced at an enquiry, on good cause shown, may be heard by the Council or disciplinary committee, as the case may be, *in camera*;
 - (c) the Council or disciplinary committee, as the case may be, on good cause shown, may order that no person may at any time in any way publish any information which would probably reveal the identity of any particular person, other than the person charged.

ANNEXURE A

DEGREES, DIPLOMAS, CERTIFICATES, AND OTHER CREDENTIALS
FROM EDUCATIONAL OR TRAINING INSTITUTIONS

(Section 14(1)(b), regulation 2)

Educational or Training Institution	Qualification
Hong Kong University of Hong Kong	Master of Science degree in Urban Planning (MSc Urban Planning)
Republic of South Africa	
University of Cape Town	Master degree in Urban and Regional Planning (MURP) Master degree in City and Regional Planning (MCRP) Master degree in City Planning and Urban Design (MCPUD)
University of Natal	Master of Science degree in Town and Regional Planning (MSc TRP) Master degree in Town Planning (MTP) Master degree in Town and Regional Planning (MTRP)
University of Potchefstroom	Bachelor of Arts et Science degree in Planning (B Art et Science (Planning)) Bachelor of Arts degree in Planning (BA (Planning)) Master of Arts degree in Planning (MA (Planning)) Master of Arts et Science degree in Planning (M Art et Science (Planning))
University of Pretoria	Doctor of Philosophy degree in Planning (D Phil (Planning)) Master of Science degree in Town and Regional Planning (MSc (TRP)) Bachelor degree in Town and Regional Planning (B (TRP)) Master degree in Town and Regional Planning (M (TRP))
University of Stellenbosch	Master degree in Regional Planning (M RP)) Master degree in Town and Regional Planning (M (TRP))
University of Orange Free State	Master degree in Town and Regional Planning (MTRP) Doctor of Philosophy degree in Town and Regional Planning (D Phil (TRP))
University of Witwatersrand	Bachelor of Science degree in Town and Regional Planning (BSc TRP) Master of Science degree in Town and Regional Planning (MSc TRP) Master degree in Environmental Planning (Town and Regional Planning) (MEP (TRP))
United Kingdom	
University of Cardiff	Master of Science degree in City and Regional Planning (MSc CRP)

University College Dublin	Master degree in Rural and Urban Planning (MRUP) Master of Science degree in Town and Country Planning (MSc TCP)
University College London	Master of Philosophy degree in Town Planning (M Phil Town Planning)
University of Edinburgh/Heriot Watt	Master of Science degree in Town and Country Planning (MSc TCP)
University of Leeds Metropolitan	Master degree in Urban and Regional Planning (MURP)
University of Liverpool John Moores	Master of Science degree in Town and Regional Planning (MSc TRP)
University of Manchester	Master of Science degree in Environmental Planning (MSc Environmental Planning)
University of Newcastle-Upon-Tyne	Master degree in Town Planning (MTP)
University of Nottingham	Master degree in Town Planning (MTP)
University of Oxford Brookes	Master of Arts degree in Environmental Planning (MA Environmental Planning)
University of Reading	Master of Science degree in Urban Planning (MSc UP)
University of Queens Belfast	Master of Science degree in Town and Country Planning (MSc TCP)
University of Sheffield	Master of Science degree in Town and Regional Planning (MSc TRP)
University of Sheffield Hallam	Master degree in Town and Regional Planning (MTRP)
University of South Bank	Master degree in Urban and Regional Planning (MURP)
University of Strathclyde	Master of Arts degree in Town Planning (MA TP)
University of Westminster	Master of Science degree in Urban and Regional Planning (MSc URP)
University of West of England	Master degree in Town and Regional Planning (MTRP) Master of Arts degree in Town and Country Planning (MA TCP)
<u>United States of America</u>	
University of Long Island	Master degree in Urban Studies (M Urban Studies)
University of Ball State	Bachelor of Arts Science degree in Urban and Regional Studies (BA Science (Urban and Regional Studies))
University of New York	Master degree in Urban Planning (MUP)
<u>Republic of Zimbabwe</u>	
University of Zimbabwe	Master degree in Urban and Regional Planning (MURP)

ANNEXURE B**WORK RESERVED FOR TOWN AND REGIONAL PLANNERS**

(Section 13(1)(a), regulation 4)

Definitions**1.** In this Annexure -

“amendment scheme (re-zoning scheme)” means a scheme amending a town planning scheme in accordance with the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954);

“policy plan for urban development” means a plan intended for guidance and control of undeveloped land on a planned basis, and excludes developed areas and associated vacant land for future urban development;

“town planning scheme (zoning scheme)” means a town planning scheme as defined in section 2 of the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954);

“structure or strategic plan for regional development (guide plan for regional development)” means a plan projecting an urban area, social and economic development or a defined geographical area of predominantly non-urban characteristics, and providing a physical framework within which future development should take place;

“structure or strategic plan for urban development (guide plan for urban development)” means a plan projecting an urban area, or social and economic development, and providing a physical framework within which future development should take place;

“structure or strategic plan for urban development (guide plan for urban development)” means a plan projecting an urban area, or social and economic development, and providing a physical framework within which future development should take place;

“subdivision” means the subdivision of an erf or the consolidation of erven or portions of an erf in accordance with the Township and Division of Land Ordinance, 1963 (Ordinance No. 11 of 1963);

“township establishment” means the preparation and submission of an application for the establishment of a township in accordance with the Township and Division of Land Ordinance, 1963 (Ordinance No. 11 of 1963), and includes the proclamation of the township, but excludes the township layout; and

“township layout” means a layout and design of a township into erven of single or multiple land use in accordance with the Township and Division of Land Ordinance, 1963 (Ordinance No. 11 of 1963), and excludes the township establishment process.

Kinds of work reserved for town and regional planners

- 2.** The following kinds of work are reserved for town and regional planners:
- (a) Preparation and submission of a policy plan for urban development;
 - (b) Preparation and submission of a structure (strategic) plan for urban development (guide plan for urban development);
 - (c) Preparation and submission of a structure (strategic) plan for regional development (guide plan for regional development);
 - (d) Preparation and submission of a town planning scheme (zoning scheme), including revision;

- (e) Preparation and submission of a township layout;
 - (f) Preparation and submission of an application for a township establishment;
 - (g) Preparation and submission of an amendment scheme (re-zoning scheme);
 - (h) Preparation and submission of an application for subdivision of an erf and other land, except -
 - (i) subdivision relating to a consolidation which does not require a change of zoning;
 - (ii) subdivision relating to the subdivision of an erf into 10 or less portions, provided that -
 - (aa) zoning of the new portions and remainder are to remain identical to that of the parent property; and
 - (bb) no new access road, other than a minor widening of an existing road, is to be created.
-