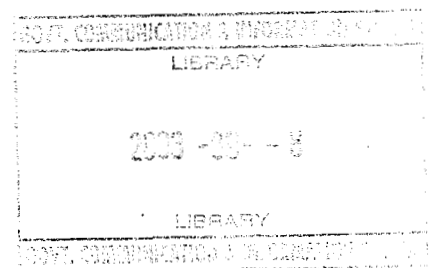


REPUBLIC OF SOUTH AFRICA

NATURAL SCIENTIFIC PROFESSIONS BILL

*(As amended by the Portfolio Committee on Arts, Culture, Science and Technology
(National Assembly)) (The English text is the official text of the Bill)*



[B 56D—2002]

ISBN 0 621 33883 4

No. of copies printed 1 800

BILL

To provide for the establishment of the South African Council for Natural Scientific Professions; and for the registration of professional, candidate and certificated natural scientists; and to provide for matters connected therewith.

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

Definitions

1. In this Act, unless the context otherwise indicates—
 - “candidate natural scientist” means a person registered as such in terms of section 20(3)(b);
 - “category” means any category of registered persons referred to in section 18(1);
 - “certificated natural scientist” means a person registered as such in terms of section 20(3)(c);
 - “chief executive officer” means a person appointed as chief executive officer in terms of section 8(1);
 - “Council” means the South African Council for Natural Scientific Professions established by section 2;
 - “Department” means the Department of Science and Technology;
 - “Director-General” means the Director-General of the Department or any officer of the Department acting on the authority of the Director-General;
 - “Minister” means the Minister of Arts, Culture, Science and Technology;
 - “prescribe” means prescribe by regulation under section 37;
 - “professional natural scientist” means a person registered as such under section 20(3)(a);
 - “registered person” means a person registered under section 20, and includes any person deemed to be registered in terms of this Act;
 - “registration” means the process of—
 - (a) assessment of competency of applicants for the purpose of registration under this Act; and
 - (b) entering the names of the applicants who qualify into the register contemplated in section 11(c);
 - “regulation” means any regulation made under this Act;
 - “this Act” includes any regulation made under this Act;
 - “voluntary association” means any voluntary association recognised by the Council in terms of section 26.

Establishment of South African Council for Natural Scientific Professions

2. There is hereby established a juristic person to be known as the South African Council for Natural Scientific Professions.

Composition of Council

3. (1) The Council consists of not fewer than 20 and not more than 30 members, 5
appointed by the Minister, of whom—
- (a) not fewer than 12 and not more than 18 must be professional natural scientists or certificated natural scientists nominated by the voluntary associations and who—
 - (i) practise natural scientific professions; 10
 - (ii) represent the categories of registered persons mentioned in section 18; and
 - (iii) fairly represent the different categories in the natural scientific professions; 15
 - (b) not fewer than four and not more than six are in the service of the State, each 15
nominated by his or her Director-General or the chief executive officer of the organ of state concerned: Provided that at least one of the persons so nominated must be in the service of the Department and one in the service of the Department of Education; and
 - (c) not fewer than four and not more than six are members of the public 20
nominated through an open process of public participation.
- (2) The Council must be constituted in a manner that is broadly representative of the demographics of the country.

Nomination procedure

4. (1) When any nomination in terms of section 3(1)(a) or (b) becomes necessary, the 25
Minister must invite the voluntary associations and the State, in the prescribed manner, to nominate persons as members of the Council within a period of at least 30 days from the date of the invitation.
- (2) When any nomination in terms of section 3(1)(c) becomes necessary, the Minister must invite the public by notice in the *Gazette* and in at least one leading newspaper in 30
each province, to nominate persons within a period of 30 days from the date of the notice.
- (3)(a) The nominations received in terms of subsections (1) and (2) must be presented to a panel appointed by the Minister in the prescribed manner.
- (b) The panel must, within 30 days from the presentation of the nominations, make 35
recommendations to the Minister.
- (4) The Minister must, within 30 days from the date of the receipt of the recommendations, appoint new members of the Council.
- (5) If the Minister receives no nominations or an insufficient number of nominations within the period specified in the invitation, the Minister may, after consultation with the 40
panel, appoint the required number of persons who qualify to be appointed in terms of this Act.
- (6) The Minister must, as soon as practicable after the appointment of the members of the Council, by notice in the *Gazette*, publish the—
- (a) name of every person so appointed; 45
 - (b) date from which the appointment takes effect; and
 - (c) period for which the appointment is made.
- (7) The Minister must, within 30 days from the date of the appointment of the Council, determine the time and place of its first meeting, and thereafter the Council 50
must determine the time and place of any future meeting.

Term of office of members of Council

5. (1) The term of office for members of the Council is four years, but members continue in office until the succeeding Council is properly constituted.

(2) A member of the Council may not serve for more than two consecutive terms of office. 55

(3) Despite subsection (1), the Minister may, by notice in the *Gazette*, after consultation with the Council—

- (a) extend the period of office of any member of the Council for a period of six months, but he or she may only extend the period of office twice; and
- (b) terminate the period of office of any member of the Council.

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(4) The Minister may only act in terms of subsection (3)(b) if a new Council has been appointed in terms of section 4.

Disqualification from membership of Council and vacation of office

6. (1) A person may not be appointed as a member of the Council if that person—

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- (a) is not a South African citizen;
- (b) is an unrehabilitated insolvent;
- (c) after the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), has been convicted of an offence, whether in the Republic or elsewhere, and sentenced to imprisonment for a period exceeding three months, or to a fine as alternative thereto;
- (d) has, as a result of improper conduct, been removed from an office of trust;
- (e) has in terms of this Act been found guilty by a disciplinary tribunal or the Council of improper conduct; or
- (f) is not, in the case of a person referred to in section 3(a) or (b), a registered person.

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(2) A member of the Council must vacate his or her office if he or she—

- (a) becomes disqualified in terms of subsection (1) from being appointed as a member of the Council;
- (b) resigns by written notice addressed to the chief executive officer;
- (c) is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (Act No. 18 of 1973);
- (d) has, without leave of the Council, been absent from more than two consecutive meetings of the Council;
- (e) was appointed in terms of section 3(a) and is no longer a member of the body that nominated him or her;
- (f) was appointed in terms of section 3(b) and ceases to be employed by the State; or
- (g) ceases to be permanently resident in the Republic of South Africa.

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(3) The Council may, by notice in writing, remove a member from office if the Council has sufficient reason to believe that the person concerned is not fit and proper to hold office.

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(4) (a) If a member of the Council dies or vacates his or her office before the expiration of his or her term of office, the Minister may, after consultation with the Council and subject to subsection (1), appoint a person to fill the vacancy for the unexpired portion of the period for which that member was appointed.

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(b) The appointment contemplated in paragraph (a) must be made within 60 days from the date on which the vacancy occurs.

Election of president and vice-president of Council

7. (1) (a) The members of the Council must at the first meeting of every newly constituted Council elect a president and vice-president.

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(b) Both the president and the vice-president must be registered persons and at least one must practise a natural scientific profession.

(c) The president and vice-president hold office for the period of four years from the date of their appointment.

(2) The vice-president may perform all the functions of the president if the president is for any reason unable to act as such.

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(3) (a) If both the president and the vice-president are unable to preside at a Council meeting, the members present must elect a person from their number to preside at that meeting.

(b) The person elected may, during that meeting and until the president or vice-president resumes his or her functions, perform all the functions of the president.

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Appointment of chief executive officer and other officials of Council

8. (1) The Council may appoint a chief executive officer and such other officials as it may deem necessary to carry out its functions, on such conditions, including the payment of remuneration and a honorarium, as it may determine.

(2) The chief executive officer must perform such functions as may be assigned to him or her by the Council. 5

Decisions of Council

9. (1) A decision of the majority of the members of the Council constitutes a decision of the Council.

(2) In the event of an equality of votes the person presiding at the meeting has a casting vote in addition to his or her deliberative vote. 10

(3) A decision taken by the Council or an act performed under the authority of the Council is not invalid by reason only of a vacancy on the Council, or 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. 15

Administrative powers of Council

10. The Council may—

- (a) subject to the approval of the Minister and the Minister of Finance, determine the allowances payable from the funds of the Council to its members and the members of any committee of the Council; 20
- (b) subject to the approval of the Minister and the Minister of Finance, arrange for the payment of pension and other benefits to any official of the Council or his or her dependants on termination of service; 25
- (c) determine where its head office must be situated;
- (d) determine the manner in which meetings of the Council or any committee of the Council must be convened, the procedure and quorum at such meetings and the manner in which minutes of such meetings must be kept; and
- (e) publish, sell and otherwise disseminate any publication relating to the natural scientific professions. 30

Powers of Council with regard to registration

11. Subject to this Act, the Council must—

- (a) consider and decide on any application for registration;
- (b) determine and prescribe the period of validity of the registration of a registered person; 35
- (c) keep a register of registered persons and decide on the—
 - (i) form of certificates and the register to be kept;
 - (ii) maintenance of the register or issuing of certificates; and
 - (iii) reviewing of the register and the manner in which alterations thereto may be effected. 40

Powers of Council with regard to fees and charges

12. (1) The Council must, with regard to fees and charges payable to the Council, determine—

- (a) application fees; 45
- (b) registration fees;
- (c) annual fees, or any portion thereof in respect of a part of a year;
- (d) the date on which any fee or charge is payable;
- (e) any charge payable for the purposes of the education and training fund contemplated in section 15(5); 50
- (f) fees payable by the Council in terms of an appointment contemplated in section 14(c); or
- (g) any other fee or charge it considers necessary.

(2) The Council may grant exemption from payment of any fees or charges or any portion thereof referred to in subsection (1).

Powers of Council with regard to education and training in natural sciences

13. The Council may—

- (a) perform such functions within the framework of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), and the Higher Education Act, 1997 (Act No. 101 of 1997), as may be required by those Acts, and must in this regard consult with—
 - (i) the Council on Higher Education established by the Higher Education Act, 1997, regarding matters relevant to education in the natural sciences;
 - (ii) the South African Qualifications Authority established by the South African Qualifications Authority Act, 1995, to determine competency standards for the purpose of registration;
- (b) establish mechanisms for registered persons to gain recognition of their qualifications and professional status in other countries;
- (c) recognise any examination contemplated in section 20 or withdraw the recognition;
- (d) enter into an agreement with any person, within or outside the Republic, with regard to the recognition of any examination or qualification for the purposes of this Act;
- (e) give advice or render assistance to any educational institution, voluntary association or examining body with regard to educational facilities for, and the training and education of, registered persons and prospective registered persons; and
- (f) through a recognised agency having the competency to do so, conduct any examination for the purposes of section 20.

General powers of Council

14. The Council may, in addition to other powers in this Act—

- (a) acquire, hire, maintain, let, sell or otherwise dispose of movable property, subject to the approval of the Minister, or immovable property, subject to the approval of the Minister and the Minister of Finance, for the effective performance of its functions;
- (b) decide upon the manner in which contracts must be entered into on behalf of the Council;
- (c) appoint any person to perform any service within the Council's competence;
- (d) advise the Minister or any other Minister on any matter relating to the natural scientific professions;
- (e) undertake research into matters relating to the natural scientific professions and encourage such research;
- (f) take such steps as it may consider necessary—
 - (i) for the protection of the public in their dealings with registered persons; and
 - (ii) for the maintenance of the integrity, the enhancement of the status, and the improvement of the standards of services rendered by registered persons;
- (g) take such steps as it may consider necessary to create an awareness amongst registered persons of the importance to protect the environment against harmful natural scientific practices;
- (h) take such steps as it may consider necessary, where, as a result of undertakings related to natural science, public health and safety is prejudiced;
- (i) take such measures as it may consider necessary for the proper performance of its functions or to achieve the objects of this Act.

Funds of Council and keeping and auditing of accounts

15. (1) The funds of the Council consist of money received in terms of this Act and all other monies which may accrue to the Council from any other lawful source.

(2) The Council may, subject to section 66 of the Public Finance Management Act, 1999 (Act No. 1 of 1999)—

- (a) raise money by way of a loan, subject to the approval of the Minister and the Minister of Finance, for the purpose of effectively performing its functions;
- (b) mortgage, subject to the approval of the Minister and the Minister of Finance, any of its immovable property as security for a loan referred to in paragraph (a).

(3) The Council must remunerate its members, committee members and officials only from its funds.

(4) The Council may finance any publication contemplated in section 10(e).

(5) The Council may establish and administer a fund for the purpose of the education and training of students in the natural scientific professions and for the continued education and training of registered persons in compliance with the national developmental imperatives.

(6) The Council must keep full and correct account of all monies received and expended by it.

(7) (a) The Council must annually prepare a statement of income and expenditure and a balance sheet showing its financial position as at the close of the financial year to which it relates.

(b) The Council must have the statement and balance sheet audited by an auditor registered in terms of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991).

(c) A copy of the audited statement and balance sheet must be open for inspection at the offices of the Council.

(8) The Council must, within six months from the close of each financial year, submit the audited statement and balance sheet to the Minister and must provide a copy to the Director-General.

(9) The Minister may, with the concurrence of the Minister of Finance and on request of the Council—

- (a) advance or grant to the Council, out of money appropriated by Parliament, such amounts as the Minister considers necessary;
- (b) determine the conditions to and repayment of the advance.

(10) The financial year of the Council ends on the date determined in the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(11) The Council must apply due care, diligence and full transparency when investing any money or appropriating any expenditure from the funds of the Council.

Reports to Department

16. (1) The Council must, within six months from the close of each financial year, provide the Minister with an annual report regarding its activities during that financial year for tabling in Parliament.

(2) A copy of the report referred to in subsection (1) and the register referred to in section 11(c) must be open for inspection at the offices of the Council.

(3) The Council must, on request of the Director-General, provide the Department with any information regarding a registered person.

Committees of Council

17. (1) (a) The Council may establish any committee to assist it in the performance of its functions and may appoint any person as a member of that committee.

(b) If the Council does not designate a chairperson for a committee, the committee may, at its first meeting, elect a chairperson from among its members.

(c) The Council may at any time dissolve or reconstitute a committee.

(2) Section 9 applies with the necessary changes in respect of a committee of the Council.

Categories of registration

18. (1) The categories for registered persons in the natural scientific professions are—

- (a) professional natural scientist;
- (b) candidate natural scientist; and
- (c) certificated natural scientist.

(2) A person may not practise in any of the fields of practice listed in Schedule I, unless he or she is registered in a category mentioned in subsection (1).

Fields of practice in natural scientific professions

19. (1) The fields of practice in the natural sciences are listed in Schedule I.

(2) (a) The Council may determine fields of practice in the natural sciences which are generically the same as those mentioned in Schedule I and recommend to the Minister that such fields of practice be included in Schedule I. 5

(b) The Minister may by notice in the *Gazette*, after consideration and approval of a recommendation by the Council, amend or delete a field of practice listed in Schedule I or add any field of practice thereto. 10

Registration

20. (1) Only a registered person may practise in a consulting capacity.

(2) (a) A person must apply, in the prescribed manner, to the Council for registration in a category referred to in section 18(1) and a field of practice listed in Schedule I.

(b) The application referred to in paragraph (a) must be accompanied by the prescribed registration fee. 15

(3) The Council must register and issue a registration certificate to the successful applicant in the prescribed form if it is satisfied that the applicant, in the case of a person applying for registration as a—

(a) professional natural scientist in any field of practice listed in Schedule I, has proved that he or she has satisfied the relevant educational requirement determined by the Council for this purpose by— 20

(i) demonstrating his or her competence against standards determined by the Council for the relevant category of registered persons; or

(ii) passing any examinations that may be determined by the Council; 25

(b) candidate natural scientist in any field of practice listed in Schedule I, has proved that he or she has satisfied the relevant educational requirement determined by the Council for this purpose by—

(i) passing accredited or recognised examinations at any educational institution offering educational programmes in the natural sciences; 30

(ii) passing any other examination that may be determined by the Council; or

(iii) presenting evidence of prior experience in the natural sciences;

(c) certificated natural scientist in any field of practice listed in Schedule I, has proved that he or she has satisfied the relevant educational requirements determined by the Council for this purpose, by— 35

(i) passing accredited or recognised examinations at any educational institution offering educational programmes in the natural sciences;

(ii) passing any other examination that may be determined by the Council; or

(iii) presenting evidence of prior experience in the natural sciences.

(4) (a) Despite subsection (3), the Council may refuse to register an applicant— 40

(i) if, after the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), the applicant has been convicted of an offence, either in the Republic or elsewhere, and sentenced to imprisonment for a period exceeding three months, or a fine as alternative thereto;

(ii) if the applicant is declared by the High Court to be of unsound mind or mentally disordered, or is detained under the Mental Health Act, 1973 (Act No. 17 of 1973); 45

(iii) for as long as the registration of the applicant is suspended as a result of any punishment imposed on him or her under this Act;

(iv) if the applicant has been removed from an office of trust on account of improper conduct; 50

(v) if the applicant is an unrehabilitated insolvent whose insolvency was caused by his or her negligence or incompetence in performing work falling within the scope of the category in respect of which he or she is applying for registration. 55

(b) The Council must inform the applicant in writing if an application for registration is refused.

Cancellation of registration

21. (1) (a) The Council may cancel the registration of a registered person if he or she—

- (i) becomes disqualified for registration as contemplated in section 20(4);
- (ii) has erroneously been registered, or has been registered on information subsequently proved to be false; or
- (iii) fails to pay the prescribed annual fee or portion thereof, within 60 days from it becoming due or within such further period as the Council may allow, either before or after expiry of the 60 days.

(b) The Council must inform the registered person in writing if his or her registration is cancelled.

(2) (a) If a person who is registered as a candidate natural scientist qualifies to be registered as a professional natural scientist in terms of section 20(3)(a), the Council must cancel his or her registration as a candidate natural scientist.

(b) If a person who is registered as a certificated natural scientist qualifies to be registered as a candidate natural scientist in terms of section 20(3)(b), the Council must cancel his or her registration as a certificated natural scientist.

(3) The Council must at the written request of any registered person cancel his or her registration, but where an investigation into alleged improper conduct by that person is in progress or is to be held, the registration may not be cancelled until the investigation has been concluded.

(4) Despite the cancellation of the registration of a registered person in terms of this section, that person remains liable for any fee, arrears or penalty imposed by the Council for the period that he or she was registered.

Authorised titles

22. (1) A registered person may—

- (a) use the title “Professional Natural Scientist”, “Candidate Natural Scientist” or “Certificated Natural Scientist”, as the case may be; and
- (b) affix the prescribed abbreviation after his or her name.

(2) A certificated natural scientist or candidate natural scientist—

- (a) may only perform work in the natural scientific professions under the supervision and control of a professional natural scientist;
- (b) must use his or her title in all natural scientific reports and other documentation relating to his or her work in the natural scientific profession prepared by him or her.

Renewal of registration

23. (1) A registered person must, at least three months prior to the expiry of his or her registration, apply in the prescribed manner to the Council for the renewal of his or her registration.

(2) The Council may determine conditions for the renewal of registration.

(3) The Council must, on application, register a person who had previously been registered and whose registration was cancelled in terms of section 21(1)(a)(iii), if he or she has paid—

- (a) the prescribed application and registration fees;
- (b) any annual fee or portion thereof in arrears;
- (c) any expenses incurred by the Council in connection with the recovery of any fees in arrears; and
- (d) any penalties imposed on him or her by the Council.

Return of registration certificate

24. Any person whose registration has been cancelled in terms of this Act must return his or her registration certificate to the chief executive officer within 30 days from the date on which he or she is directed in writing by the chief executive officer to do so.

Grievance procedure in relation to registration

25. (1) If a committee of the Council refuses to register a person or cancels his or her registration, other than a cancellation in terms of sections 21(1)(a)(iii) or in terms of section 33(3)(a)(iv) where the person concerned has admitted guilt to the charge, that person may, on payment of the prescribed fees and within 30 days, appeal to the Council against that decision. 5

(2) The Council must, at its first ensuing meeting, but at least within 60 days from the date of the receipt of the appeal, decide on the appeal and provide the appellant with reasons for its decision.

(3) If an appeal lies against the refusal of a committee to renew the registration of a registered person, the registration of that person may not be cancelled until the appeal has been decided. 10

Recognition of voluntary associations

26. (1) The Council must submit the framework for the requirements for recognition of a voluntary association to the Director-General for approval. 15

(2) As soon as the framework is approved, the Council must determine the requirements with which a voluntary association must comply to qualify for recognition by the Council.

(3) Any voluntary association may apply to the Council to be recognised as such.

(4) The Council may, if the voluntary association complies with the requirements determined in terms of subsection (2), recognise that association and issue it with a certificate of recognition. 20

(5) A certificate of recognition is valid for a period of five years from the date of issue and may on application be renewed for further periods of five years.

(6) The recognition of a voluntary association lapses— 25

(a) if that association no longer complies with the requirements determined in terms of subsection (2); or

(b) if no application for renewal had been made, at the expiry of the five-year period referred to in subsection (5).

(7) The chairperson or head of a voluntary association whose recognition has lapsed must on written demand return the certificate of recognition to the Council. 30

(8) A voluntary association must display its certificate of recognition in a conspicuous place at its head office.

Identification of work

27. (1) The Council must consult with all voluntary associations regarding the identification of the type of natural scientific work which may be performed by registered persons. 35

(2) After the process of consultation the Council must submit recommendations to the Director-General regarding the work identified in terms of subsection (1), for its consideration and determination. 40

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

(a) perform any kind of work identified for any category of registered persons in terms of this section;

(b) pretend to be, or in any manner hold or allow himself or herself to be held out as, a person registered in terms of this Act; 45

(c) use the name of any registered person or any name or title referred to in sections 18 and 22; or

(d) perform any act purporting or calculated to lead persons to believe that he or she is registered in terms of this Act.

(4) Subsection (3)(a) may not be construed as prohibiting any person from performing work identified in terms of this section, if such work is performed in the service of or by order of and under the direction, control, supervision of or in association with a registered person entitled to perform the identified work and who must assume responsibility for any work so performed. 50

(5) Notwithstanding subsection (3), a person registered in terms of the following Acts may perform those elements of the natural scientific profession which are essential for the practising of his or her profession, if his or her education, training and experience render him or her competent to perform that work: 55

- (a) Town and Regional Planners Act, 1984 (Act No. 19 of 1984);
- (b) Professional Land Surveyors' and Technical Surveyors' Act, 1984 (Act No. 40 of 1984);
- (c) Architectural Profession Act, 2000 (Act No. 44 of 2000);
- (d) Landscape Architectural Profession Act, 2000 (Act No. 45 of 2000); 5
- (e) Engineering Professions Act, 2000 (Act No. 46 of 2000);
- (f) Property Valuers Profession Act, 2000 (Act No. 47 of 2000);
- (g) Project and Construction Management Profession Act, 2000 (Act No. 48 of 2000);
- (h) Quantity Surveying Profession Act, 2000 (Act No. 49 of 2000). 10

Professional conduct

28. (1) The Council must, after consultation with the Director-General, voluntary associations and registered persons, draw up a code of conduct for registered persons.

(2) (a) The Council is responsible for administering the code of conduct and must ensure that the code is available to all members of the public at all reasonable times. 15

(b) The Council must provide the Director-General with a copy of the code.

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

Investigation of charge of improper conduct

29. (1) The Council must refer any matter brought against a registered person to an investigating committee established under section 17, if— 20

(a) the Council has reasonable grounds to suspect that a registered person has committed an act which may render him or her guilty of improper conduct; or

(b) a complaint of improper conduct has been brought against a registered person.

(2) The investigating committee must in the prescribed manner— 25

(a) investigate the matter; and

(b) obtain evidence to determine whether or not the registered person concerned may be charged, and if so, recommend to the Council the charge or charges that may be preferred against that registered person.

(3) An investigating committee may not question the registered person concerned unless the investigating committee informs that registered person that he or she— 30

(a) has the right to be assisted or represented by another person; and

(b) is not obliged to make any statement and that any statement so made may be used in evidence against the registered person.

(4) The investigating committee must, after the conclusion of the investigation, submit a report containing its recommendations to the Council. 35

Charge of improper conduct

30. (1) The Council must, after considering a report contemplated in section 29(4), charge a registered person with improper conduct if the Council is convinced that sufficient grounds exist for a charge to be preferred against such a registered person. 40

(2) The Council must furnish a charge sheet to the registered person concerned by hand or registered mail.

(3) A charge sheet must inform the registered person charged—

(a) of the details and nature of the charge;

(b) that he or she must, in writing, admit or deny the charge; 45

(c) 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

(d) of the period, which must be reasonable, within which his or her plea in terms of paragraph (b) must be submitted to the Council. 50

(4) (a) If a registered person charged admits that he or she is guilty of the charge, he or she is considered to have been found guilty of improper conduct as charged.

(b) The Council may, subject to section 33(2), impose a penalty contemplated in section 33(3)(a) or (b) on a registered person who has admitted guilt in terms of paragraph (a). 55

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

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31. (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) fails to comply with section 30(3)(b).
- (2) The disciplinary tribunal must consist of at least— 10
- (a) a person who specialises in the area concerning the charge;
 - (b) a professional natural scientist who has at least 10 years' experience; and
 - (c) a person qualified in law and who has at least 10 years' experience.

Disciplinary hearing

32. (1) The Council must appoint a person to assist the disciplinary tribunal as set out 15 in this section.

- (2) (a) The person mentioned in subsection (1) may subpoena any person—
 - (i) who may be able to give material information concerning the subject of the hearing; or
 - (ii) whom he or she has reason to suspect of having 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 subpoena issued under paragraph (a), must be— 25
 - (i) in the prescribed form;
 - (ii) signed by the person mentioned in subsection (1); and
 - (iii) served on the registered person concerned personally or by sending it by registered mail.
- (3) The disciplinary tribunal may retain any book, document or object produced in 30 terms of subsection (2) for the duration of the hearing.
- (4) The chairperson of the disciplinary tribunal may administer an oath to, or take an affirmation from any witness at the hearing.
- (5) At a hearing the registered person charged—
 - (a) must be present; 35
 - (b) may be assisted or represented by another person in conducting the proceedings;
 - (c) has the right to be heard;
 - (d) may call witnesses;
 - (e) may cross-examine any person called as a witness in support of the charge; 40 and
 - (f) may have access to documents produced in evidence;
- (6) (a) The registered person may admit at any time before conviction that he or she is guilty of the charge despite the fact that he or she denied the charge or failed to react in terms of section 30(3)(b) or (c). 45
- (b) The registered person is deemed to be guilty as charged if he or she makes an admission contemplated in paragraph (a).
- (7) The person mentioned in subsection (1) may during a hearing—
 - (a) lead evidence and advance arguments in support of the charge and cross-examine witnesses; 50
 - (b) question any person who was subpoenaed in terms of subsection (2); and
 - (c) call anyone to give evidence or to produce any book, document or object in his or her possession or custody or under his or her control which the investigating committee suspects or believes to have a bearing on the subject of the hearing. 55
- (8) (a) A witness who has been subpoenaed may not—
 - (i) without sufficient cause, fail to attend the hearing at the time and place specified in the subpoena;
 - (ii) refuse to be sworn in or to be affirmed as a witness;

- (iii) without sufficient cause, fail to answer fully and satisfactorily to the best of his or her knowledge to all questions lawfully put to him or her; or
- (iv) fail to produce any book, document or object in his or her possession or custody or under his or her control which he or she has been required to produce.

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(b) A witness who has been subpoenaed must remain in attendance until excused by the chairperson of the disciplinary tribunal from further attendance.

(c) A witness who has been subpoenaed may request that the names of the members of the disciplinary tribunal be made available to him or her.

(d) The law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce a book, document or object in a civil trial before a court of law, applies with the necessary changes in relation to the examination of, or the production of any book, document or object by, any person called in terms of this section as a witness.

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(e) A witness may not, after having been sworn in or having been affirmed as a witness, give a false statement on any matter, knowing that answer or statement to be false.

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(f) A person may not prevent another person from complying with a subpoena or from giving evidence or producing a book, document or object which he or she is in terms of this section required to give or produce.

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(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.

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Proceedings after hearing

33. (1) After the conclusion of the hearing the disciplinary tribunal must make a finding on the charge and in the case of a finding of guilty take cognisance of any aggravating or mitigating circumstances.

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(2) A registered person found guilty of improper conduct in terms of this section may, in mitigation of sentence—

- (a) address the disciplinary tribunal; and
- (b) call witnesses to give evidence on his or her behalf.

(3) (a) If the registered person charged is found guilty of improper conduct, or if he or she admits that he or she is guilty of the charge, the disciplinary tribunal may—

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- (i) caution or reprimand the registered person;
- (ii) impose on him or her a fine not exceeding the amount calculated according to the ratio for one year's imprisonment determined in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991);
- (iii) suspend the registration of the registered person concerned for a period not exceeding one year; or
- (iv) cancel the registration of the registered person concerned and remove his or her name from the register referred to in section 11(c).

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(b) The disciplinary tribunal may take decisions under more than one of the subparagraphs of paragraph (a) and it may also suspend any of the penalties imposed in terms of that paragraph.

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(4) Where a person is sentenced under subsection (3) the disciplinary tribunal must inform the person of his or her right of appeal.

(5) At the conclusion of the hearing the disciplinary tribunal must notify the Council of its finding.

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(6) The Council may publish the finding and the penalty or sentence imposed in terms of subsection (3) in any manner it considers fit.

Appeal against decision of disciplinary tribunal

34. (1) (a) A person found guilty of improper conduct under section 33 may appeal to the Council against a finding of the disciplinary tribunal or against the sentence, or both.

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(b) The appeal must be lodged within 30 days after the disciplinary tribunal has informed the registered person of its decision.

(2) A decision of the disciplinary tribunal under section 33(3) or the publication in terms of section 33(6) may not be put into effect before the Council has decided the appeal, if any.

Professional fees

35. (1) The Council must annually, after consultation with the voluntary associations and registered persons, determine guideline professional fees and publish those fees in the *Gazette*. 5

(2) Any person who feels aggrieved by the guideline professional fees published in terms of subsection (1) may bring the matter to the attention of the Council for its consideration. 10

Objections against certain decisions of Council

36. (1) Any person who feels aggrieved by a decision made by the Council in the exercise of its powers in terms of this Act may—

- (a) within 30 days from that person becoming aware of the decision, and on payment of the prescribed fees, request the Council in writing to furnish him or her in writing with its reasons for that decision; 15
- (b) within 90 days from the date on which the Council furnished him or her with its reasons for that decision and after giving notice to the Council, appeal to the Council for a formal review of its decision.

(2) This section does not apply to any appeal contemplated in sections 25 and 34. 20

Regulations and rules

37. (1) The Minister may, after consultation with the Council, make regulations regarding—

- (a) any matter that is required or permitted to be prescribed in terms of this Act; and 25
- (b) generally, any matter which it is necessary or expedient to prescribe in order to achieve the objects of this Act.

(2) The Council may, with the concurrence of the Minister, by notice in the *Gazette* make rules regarding—

- (a) procedures at any meeting of the Council or any committee thereof; 30
- (b) registers to be kept by the Council;
- (c) conduct on the part of a registered person which constitutes improper conduct;
- (d) generally any matter which it is necessary or expedient to prescribe in order to perform its functions properly.

Procedure and evidence 35

38. (1) The register referred to in section 11(c) serves as evidence of all matters which, in terms of this Act, are required or permitted to be noted therein.

(2) A certificate purporting to be signed by the chief executive officer to the effect that an entry has or has not been made in the register or that any other thing authorised by this Act to be done, has or has not been done, is evidence of the matters specified in that certificate. 40

(3) A copy of an entry in the register or of a document in the custody of the chief executive officer or an extract from the register or from any such document, purporting to be certified by the chief executive officer, may be admitted as evidence in all courts without further proof or production of the original. 45

Rectification of errors

39. When anything which according to this Act is required to be done or performed on or before a specified day or at a specified time or during a specified period has not been done or performed, the Minister may, if satisfied that the failure was due to error or oversight, authorise it to be done or performed on or before another day or time or during another period and anything done or performed in this regard is of full force and is deemed to have been lawfully done or performed in accordance with this Act. 50

Delegation of powers

40. (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 or to make regulations or issue notices, to the Director-General or any other official of the Department.

(2) The Council may delegate any of its powers in terms of this Act, excluding the power to hear an appeal in terms of section 25(2) and to make rules, to a committee, an official or a member of the Council or any other person or body of persons.

(3) The chief executive officer may delegate any of his or her powers in terms of this Act to an official of the Council.

Offences and penalties

41. (1) A person contravening section 24, 26(7), 27(3)(a), (b), (c) or (d) or 32(8)(a)(i), (ii), (iii) or (iv) or (b), (e) or (f) is guilty of an offence.

(2) A person who is convicted of an offence in terms of section 24 or 26(7) is liable to a maximum fine equal to a fine calculated according to the ratio determined for a period of one month's imprisonment in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991).

(3) A person convicted of an offence in terms of section 27(3)(a), (b), (c) or (d) is liable to a maximum fine equal to double the remuneration received by him or her for work done in contravention thereof, or 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 (Act No. 101 of 1991).

(4) A person who is convicted of an offence in terms of section 32(8)(a)(i), (ii), (iii) or (iv) or (b), (e) or (f) 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 (Act No. 101 of 1991).

Transitional provisions and savings

42. (1) For purposes of this section, "effective date" means the date of the first meeting of the Council constituted in terms of section 3.

(2) The South African Natural Scientific Professions Council established by section 2 of the Natural Scientific Professions Act, 1993 (Act No. 106 of 1993), continues to exist and may exercise its powers and perform its functions after the commencement of this Act until the effective date.

(3) From the effective date all rights, obligations, assets and liabilities acquired or incurred by the South African Council for Natural Scientific Professions in terms of the Natural Scientific Professions Act, 1993, 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.

(4) The Minister must within 30 days from the commencement of this Act, invite nominations for the appointment of members of the Council, in accordance with section 4.

(5) No more than seven members of the South African Council for Natural Scientific Professions, established in terms of the Natural Scientific Professions Act, 1993 (Act No. 106 of 1993), who are nominated by that council, become members of the Council for the first term of the Council.

(6) For the purpose of nominations of members of the first Council, the organisations mentioned in section 3 of the Natural Scientific Professions Act, 1993 (Act No. 106 of 1993), are deemed to be recognised as voluntary organisations in terms of section 26.

(7) Anything done under the Natural Scientific Professions Act, 1993, and which could have been done under a provision of this Act—

(a) is deemed to have been done under that provision; and

(b) remains valid unless repealed under this Act.

(8) Notwithstanding subsection (7), any disciplinary action instituted in terms of the Natural Scientific Professions Act, 1993, which is pending at the commencement date of this Act, must be finalised in terms of that Act.

(9) Any person who immediately prior to the commencement of this Act was registered as a professional natural scientist or as a professional natural scientist-in-training in terms of the Natural Scientific Professions Act, 1993, or was deemed to have

been so registered, is deemed to be registered as a professional natural scientist or a candidate natural scientist, as the case may be, in terms of this Act.

(10) (a) For a period of 12 months after the commencement of this Act any person who immediately prior to the commencement of this Act was registered as a professional natural science technologist or as a professional natural science technologist-in-training in terms of the Natural Scientific Professions Act, 1993, or was deemed to have been so registered, retains that designation and is deemed to be registered in terms of this Act. 5

(b) Within the period of 12 months referred to in paragraph (a), any professional natural science technologist or professional natural science technologist-in-training contemplated in paragraph (a) may apply for registration in terms of this Act. 10

(11) From the effective date, any register maintained in terms of the Natural Scientific Professions Act, 1993, is incorporated in and is considered to form part of a register to be maintained in terms of this Act.

Act binding on State

43. This Act binds the State, except in so far as the State provides forensic science services. 15

Repeal of laws

44. The Natural Scientific Professions Act, 1993 (Act No. 106 of 1993), is hereby repealed.

Short title and commencement

45. This Act is called the Natural Scientific Professions Act, 2003, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 20



SCHEDULE I**FIELDS OF PRACTICE**

Agricultural Science
Animal Science
Biological Science
Botanical Science
Chemical Science
Earth Science
Ecological Science
Environmental Science
Food Science
Forensic Science
Forestry Science
Geographical Science
Geological Science
Hydrological Science
Industrial Science
Marine Science
Materials Science
Mathematical Science
Mathematics Education Science
Metallurgical Science
Microbiological Science
Natural Science Education Science
Physical Science
Radiation Science
Water Care Science
Zoological Science



MEMORANDUM ON THE OBJECTS OF THE NATURAL SCIENTIFIC PROFESSIONS BILL

The Bill provides for the establishment of the South African Council for Natural Scientific Professions and for the registration of professional, candidate and certificated natural scientists, and for matters connected therewith.

The Natural Scientific Professions Act was assented to in 1993. It has become necessary to review the existing legislation due to certain limitations.

The stipulations regarding appointment procedures of Council members in the present Act are made more transparent and flexible.

Developments in the tertiary education system after 1993, e.g. the establishment of SAQA, are now reflected in the description of the Council's functions.

Certain stipulations, needed to ensure more efficient management, are added.

FINANCIAL IMPLICATIONS FOR STATE

None that have not been budgeted for.

OTHER DEPARTMENTS/ INSTITUTIONS/ BODIES CONSULTED

Joint Council of Earth Sciences
 South African Chemical Institute
 Zoological Society of Southern Africa
 Southern African Society for Aquatic Scientists
 South African Institute of Physics
 Liaison Committee of Scientific Societies Concerned with Agriculture
 South African Association of Botanists
 South African Mathematical Society
 South African Institute of Computer Scientists
 South African Statistical Association
 Operations Research Society of South Africa
 South African Society of Crop Production
 Southern African Society for Horticultural Sciences
 South African Society for Enology and Viticulture
 Southern African Weed Science Society
 Southern African Institute of Forestry
 South African Society for Animal Production
 South African Society for Animal Science
 Grassland Society of Southern Africa
 South African Institute of Ecologists
 Joint Council of Scientific Societies
 All national departments

PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Science and Technology are of the view that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.