



SALGA

South African Local Government Association

Local Government Brief: 12/2012

Employment of Engineering Professionals

Local Government Briefs are monthly electronic updates for municipalities on critical areas of law, policy, facts and data affecting the sector.

1. PURPOSE

The purpose of this brief is to draw attention to the requirements of the Engineering Profession Act (EPA) (Act 46 of 200) pertaining to infrastructure related personnel appointments and to indicate how these align with broader government initiatives and legislation.

2. BACKGROUND

For the purposes of protecting the public and the environment, the engineering profession is regulated by the EPA. In particular section 18(2) prohibits practice in any category of registration unless the person concerned is professionally registered in that category. Transgression of this section is a criminal offence. Furthermore, Section 18(4) determines that a person who is registered in the category of candidate must perform work in the engineering profession only under the supervision and control of a professional of that particular category as prescribed. Accordingly it is illegal for a person who is not professionally registered, or only registered in the candidate category to do consulting engineering work or to take responsibility for engineering designs or work performed.

Section 26(3) prohibits the delivery of identified engineering work by persons not registered in terms of the EPA. To this end, the Engineering Council of South Africa (ECSA) has prepared an Advisory Note dealing with the Identification of Work which is available on the ECSA website. As required by the EPA, engagements are underway with the Council for the Built Environment to issue the corresponding regulations.

3. IMPLICATIONS FOR MUNICIPALITIES

As an employer of engineers and having infrastructure related mandates, municipalities are requested to ensure that the essential requirements for all posts relating to infrastructure delivery and operations firstly comply with section 18(2) of the EPA and, whilst the development of regulations is proceeding, are in accordance with ECSA's Advisory Note relating to the identification of Work in terms of Section 26(3) of the EPA. Secondly, attention is drawn to the definition of "Competent Person" in the new regulation AZ.4(2) of the National Building Regulations (NBR) which determines that the requirements of the NBR shall be complied with by: "(2) A competent person who is registered in an appropriate category of registration in terms of the Architectural Professions Act, 2000 (Act 44 of 2000), the Engineering Profession Act, 2000 (Act 46 of 2000).

A local authority, that accepts the appointment of a non-professionally registered person as a competent person, has no assurance that the person will do the work in terms of a code of conduct. This might pose a threat to public health and safety.

Adherence to the above will ensure:

- i) Adequate technical capacity within local government, which is in accordance with the findings and recommendations in the National Development Plan;
- ii) Compliance with the minimum competency requirements of the MFMA; and
- iii) Contribution to MTSF Outcome 9 target of having the top 6 posts in all municipalities filled by competent people by 2014 is achieved (Note that infrastructure positions are part of the top 6 as referred to).
- iv) Contribution to Professionalisation resolutions taken by SALGA Conference in 2011.

The shortage of technical and engineering skills at all levels of government is felt most acutely at the municipal level. This paucity of engineering capacity is reflected in the undesirable infrastructure delivery outcomes as well as inadequate technical oversight over the management and maintenance of infrastructure, resulting in a huge risk of premature failure with concomitant huge replacement cost liability. It is therefore essential to engage key role players including; national government, academic and skills development institutions and engineering professional bodies to build the required Municipal Engineering Capacity towards ensuring effective delivery of engineering and related services.

4. FURTHER REFERENCE

- 4.1 Engineering Profession Act (EPA) (Act 46 of 200)
- 4.2 Engineering Council of South Africa (ECSA) Advisory Note dealing with the Identification of Work
- 4.3 National Building Regulations (NBR) AZ.4 (2)
- 4.4 Architectural Professions Act, 2000 (Act 44 of 2000)