

Regulations regarding the appointment of a registration authority responsible for the registration of environmental assessment practitioners and the specification of tasks which may only be performed by a registered environmental assessment practitioner, under sections 24(5)(e), 24H and 44 of the National Environmental Management Act, 1998 (Act No. 107 of 1998)

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Purpose of the Regulations

- prescribe the manner in which an association proposing to register its members as environmental assessment practitioners may apply to the Minister to be appointed as a registration authority in terms of section 24H(1) of the Act;
- specify tasks performed in connection with an application for environmental authorisation that may only be performed by a registered environmental assessment practitioner, and
- prescribe the criteria for registration and renewal of registration of environmental assessment practitioners and associated procedures for such registration or renewal of registration



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APPLICATION AND APPOINTMENT AS REGISTRATION AUTHORITY

- An application by an association in terms of section 24H of the Act must contain-
 - the constitution of the association; a list of the members of the association;
 - a description of the criteria and process to be used to register environmental assessment practitioners;
 - a **list of the qualifications of the members** of the association responsible for the assessment of applicants for registration;
 - a proposed structure of the association; and
 - a **code of conduct** regulating the ethical and professional conduct of members of the association.



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APPLICATION AND APPOINTMENT AS REGISTRATION AUTHORITY

At a minimum a code of conduct must include commitments to -

- carry out professional activities in accordance with the **principles of sustainable development**;
- consider **environmental concerns as early as possible** in the development of policies and project conception;
- **accountability** for technical and professional conduct;
- ensure **the integrity of the environment**, including conservation and sustainable use of the biophysical environment, and the social welfare, health and safety aspects of the socio-economic environment, is placed above sectional or private interests;
- **improve and maintain skills and competency** in environmental assessment practice;
- **objectivity** when carrying out professional activities;
- taking responsibility for the findings and recommendations made as part of the carrying out of professional activities; and
- **denounce dishonesty, fraud, deceit, misrepresentation, discrimination or bias** in executing professional activities.



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Consideration of application and appointment of a registration authority

- Minister may invite comments on its intent to appoint an association as a registration authority (Gazette) and consider these prior to appointing an association as a registration authority refuse the application, giving reasons for such refusal in writing.
- Minister must maintain a register of all associations appointed as registration authorities.
- Minister may limit the number of registration authorities to a single registration authority (but may appoint more as are required for the purposes of this Act if circumstances so require.
- Minister may for good cause and in writing addressed to the association, terminate the appointment of an association as a registration authority



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Objectives of a registration authority

To promote-

- quality assurance regarding environmental assessment practice;
- the best interest of the environment, sustainable development and the public good;
- the transformation of environmental assessment practice through the empowerment of black and female professionals; and
- awareness of the purpose and practice of environmental assessment in South Africa.



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Responsibilities of a registration authority

- keep and maintain proper financial records in respect of every financial year relating to the assets, liabilities, income and expenditure of the registration authority;
- prepare audited financial statements for each financial year;
- submit to the Minister-
 - financial statements within six months of the end of its financial year; and
 - within a period of six months of the end of its financial year, a comprehensive report on the operations of the registration authority during that year;



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Responsibilities of a registration authority

- advise the relevant authorities on environmental assessment issues or issues that may impact on sustainable development as necessary;
- communicate, to relevant authorities, information on matters of public importance acquired during the course of its work;
- liaise with relevant government entities if necessary; and
- generally, do all such things as it deems necessary or expedient to achieve the objectives.



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Functions of a registration authority

- (1) No circumstances may exist that may compromise the **objectivity** of the registration authority in performing any work in terms of section 24H of the Act.
- (2) Executive members of the registration authority must-
 - have **no business or financial interest** in the RA other than fair remuneration for work performed in connection with the execution of functions of the RA;
 - have **expertise in ensuring compliance** to these Regulations; and
 - be able to **perform the work** relating to the application in an objective manner.
- (3) A minimum of **two thirds of the executive members of the registration authority must meet the requirements** for registration as environmental assessment practitioners.
- (4) The registration authority may **establish one or more committees** which must perform such functions as the registration authority may determine.



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Functions of a registration authority

- (5) Each committee established under this regulation must consist of such number of members as the registration authority may determine on condition that at least **two thirds of the members of such committee must qualify** to be registered environmental assessment practitioners.
- (6) The registration authority may at any time **reconstitute or dissolve** any committee established in terms of sub-regulation (5) of these Regulations.
- (7) The registration authority must, from its members, appoint a **registration committee** which will be responsible to consider and decide on any application-
- for registration as either CEAP or REAP; and
 - for renewal of registration as registered environmental assessment practitioners.



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Functions of a registration authority

- Registration authority may determine fees for application for registration and renewal of registration and for the lodging of appeals and must indicate the date on which such fees are payable.
- Registration authority must-
 - Keep and **maintain register of environmental assessment practitioners** (CEAPs and REAPs) and make it available
 - Develop, administer and enforce a **code of conduct** for CEAPs and REAPs and make it available and accessible to the public
 - Establish procedures for **disciplinary action and sanction mechanisms**
 - Establish procedures for the **submission and consideration of appeals on decisions** in accordance with the minimum requirements set for the registration and renewal of registration of EAPs
 - **Evaluate and verify foreign qualifications** obtained with the relevant national qualifications authority.



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REQUIREMENTS FOR REGISTRATION OF EAPS

- **No person may practice as an EAP unless such EAP is registered** as a CEAP or a REAP with a registration authority.
- **Minimum criteria for registration for a REAP**
 - Advanced Certificate: Environmental Assessment Practice or equivalent qualification; and
 - professional experience of-
 - at least 3 years appropriate professional experience; and
 - at least 3 environmental assessments or reviews, at an appropriate scale, conducted in the period in which the applicant has held primary responsibility for the conduct or review of the environmental assessments and which demonstrate the required level of competence.
- **Minimum criteria for registration for a CEAP (may be amended by the Minister from time to time)**
 - Advanced Certificate: Environmental Assessment Practice or equivalent qualification; and
 - professional experience of -
 - at least 1 year professional experience; and
 - at least one environmental assessment or review at an appropriate scale.



• **All registered person must comply with the code of conduct**

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Procedure for registration

- **Application** must be made on an official application form obtainable from the registration authority; and
- Must be accompanied by-
 - certified copies of academic qualifications as specified the minimum requirements for registration as CEAP or REAP,
 - information and portfolio of evidence of competence,
 - relevant application fee and
 - any other information required by the registration authority



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Procedure for registration

- Registration authority must consider the application for registration and decide within **sixty days**.
- Decision contemplated may be to-
 - register the applicant as CEAP or REAP for a period not exceeding five years;
 - refuse the applicant for registration; or
 - recommend that-
 - further information or further evidence of competence be supplied; or
 - a structured interview be held to assess the applicant's competence.
- An applicant may appeal the decision and such appeal must be processed in line with the appeal procedures determined by the registration authority



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Procedure for renewal of registration

- A REAP must, at least **three months prior to the expiry** of his or her registration, apply to the registration authority for renewal of registration .
- Failure to renew of registration at least three months prior to expiry may result in the registration authority not being able to process the renewal application in time and in the lapsing of the registration.
- Application for renewal must be made on an official application form and must contain -
 - **evidence** demonstrating **effective competence in practice** over the previous five year period of registration; and
 - **evidence that the applicant has updated and improved his/her skills, knowledge and understanding in the field of environmental assessment** during the past five year registration period;
 - **evidence that the applicant has contributed to transformation, skills transfer, capacity building and awareness raising in the environmental assessment field during the past five year** registration period.
- Registration authority must consider the application for renewal and decide the application within 30 days.

The decision may be to -

 - renew registration of the registered environmental assessment practitioner for a period not exceeding five years;
 - refuse the application for renewal of registration.



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Appeal Procedure

- A person affected by a decision related to registration or renewal who wishes to appeal against the decision, must lodge an appeal with the registration authority within 30 days after the date of the decision.
- An appeal must be submitted in writing and accompanied by a prescribed appeal fee, if any.
- Registration authority must consider such appeal in accordance with the procedures contemplated in these Regulations (R12) and decide within 60 days
- The decision may be to-
 - uphold the appeal;
 - dismiss the appeal;
 - substitute any decision as it deems fit; and
 - make such order as, in its discretion, it deems the circumstances may require, provided that it is within the terms of the Constitution and the jurisdiction of the committee which took the decision being appealed against.



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Termination of registration

- A registration authority may **terminate** the registration of a REAP or CEAP if she or he-
 - no longer meets the criteria as prescribed;
 - has erroneously been registered, or has been registered on information
 - subsequently proved to be false;
 - breaches the code of conduct of the registration authority contemplated in these regulations;
 - has been removed from an office of trust on account of improper conduct; or
 - fails to pay the prescribed annual fee within 60 days from it becoming due.
- The registration authority must-
 - **notify the REAP or CEAP of its intention** to terminate registration provide reasons; and
 - **give the REAP or CEAP opportunity to submit representations** on the proposed termination
- Upon deciding whether or not to terminate registration, the registration authority must **notify the REAP or CEAP of the decision in writing.**
- If the decision is to terminate registration, the **registration authority must give reasons** for the decision to the REAP or CEAP.
- Where registration has been terminated, the **individual registration certificate must be returned** to the registration authority.
- **Details of an EAP** whose registration has been terminated **will be removed from the register of registered EAPs CEAPs.**



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Way Forward

- Draft 24 H Regulations submitted to Mintec for recommendation for approval to publish for comment for 30 days.
- Comments to be considered and regulations amended where appropriate.



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