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Presentation on the status of the IDoW process and consultation on the process



- Purpose of the presentation and background
- IDoW Process as per the professions Acts and the CBE Act
- The CC's reasons for rejecting the Exemption Applications
- CBE's position on the way forward
- Scope of Work
- Action Plan on the Identification of Work Process
- Guideline Professional Fees
- Questions

IDoW Process as per the Professions Acts & the CBE Act

Section 26/27 (1) of the Professions Acts:

The council must consult with—

(a) all voluntary associations; (b) any person; (c) any body; or (d) any industry,
that may be affected by any laws regulating the built environment professions regarding the identification of the type of work which may be performed by persons registered in any of the categories referred to in section 18, including work which may fall within the scope of any other profession regulated by the professions' Acts referred to in the Council for the Built Act, 2000. Environment

Section 20 (2) of the CBE Act

The council must, after consultation with the Competition Commission, and in consultation with the councils for the professions, identify the scope of work for every category of registered persons.

After the process of consultation the council must submit recommendations to the CBE regarding the work identified in terms of subsection (1), for its consideration and identification in terms of section 20 of the Council for the Built Environment

The council must, after receipt of the recommendations of the councils for the professions submitted to it in terms of the professions' Acts, and before liaising with the Competition Commission in terms of section 4(q)—

(a) determine policy with regard to the identification of work for the different categories of registered persons; (b) consult with any person, body or industry that may be affected by the identification of work in terms of this section.

The CC's reasons for rejecting the Exemption Applications

1. Restriction of competition between registered and unregistered professionals.
2. Restriction of competition between professionals registered with different councils for the BE professions.
3. Restriction of competition between professionals in the BE and professionals not in the BE.
4. Restriction of competition between professionals registered with the same BE council but in different registration categories.

5. International best practice

The CC found that the regulation of BE professions a number of countries involves either the protection of title OR the protection of the practice of work, or both (i.e. total regulation).

6. The CC conclude that the CBE exemption application on behalf of the councils for the BE professions opted for the most comprehensive approach, namely the total regulation (regulation of title, practice and the identification of work). Of the countries included in the CC's benchmarking sample, only Nigeria identifies work to the same extent.

7. Other considerations:

Resource constraints

The CC found that the engineering sector is already experiencing resource restraints, and that any regulation that causes further strain to the resources in the sector is unwarranted.

The CC's reasons for rejecting the Exemption Applications (Conti.)

8. Lack of consensus

The CC found a lack of consensus between professionals registered in different categories; the persons registered in “higher” categories are more in support of IDoW than persons registered in the “lower” categories.

9. Less harmful methods proposed

- a. The CC concluded that the IDoW application is exclusionary and will impact negatively on both registered and unregistered professionals.
- b. The CC recommended that less exclusionary regulatory methods in line with international best practice, such as the protection of titles, be considered.
- c. The CC also maintains the view that there are other legislations and provisions in place for the public protection (e.g.. The National Building Regulations, Electrical Installation Regulations, Mine Health and Safety Act, etc.)

CBE's position on the way forward

The previous process	Consequence	The proposed process	Required outcome
Development of draft professional rules for each CBEP	Professional rules require exemption from the provisions of the Competition Act.	Determine policy with regard to the identification of work for the different categories of registered persons.	Compliance with Section 20(2) of the CBE Act; not requiring exemption applications.
Applied for exemption from the provisions of the Competition Act	Exemption applications were rejected by CC.	Consult with any person, body or industry that may be affected by the identification of work in terms of Section 20(1) (b) of the CBE Act.	Gain insight on the scope of work for each category of registration and consequences of identification of work to be considered.

CBE's position on the way forward

The previous process	Consequence	The proposed process	Required outcome
Re-apply for exemptions	Granting of exemption not guaranteed.	The identification of the scope of work for each category of registration	Consultation in a legal sense, not obliging the CBE to accept the views of the CC.
		Consult with the CC on the identified scope of work.	
		Finalize the identification of the scope of work for each category in consultation with the CBEP.	
		Apply for a declaratory order, on the CC's jurisdiction should CC insist on exemption applications.	Follow the outcome of the Court ruling.

Scope of Work

The CBE has identified the scope of work to mean: "... *the range of work performed by a registered person in terms of a specific piece of legislation other than the legislation that created the councils for the professions, or the statutory duties which may be performed by a registered person.*"

Questions:

1. *Identifying the scope of work as a form of regulation of the profession?*
2. *What is to be added on the definition of scope?*

Action Plan on Identification of Work process

Goals	Deadline
1. The CBE to confirm its IDoW Policy	7 June 2018
2. The CBE to invite CBEP to supplement their earlier IDoW recommendations.	7 June 2018
3. The CBE to consult with any person, body or industry that may be affected by the identification of work.	To commence on 27 July 2018 by placing an invitation for comments, with deadline 17 August 2018
4. The CBE to identify the scope of work for each category of registration.	31 August 2018
5. Quarterly update of stakeholders on progress on the process	30 September 2018 30 December 2018 31 March 2018
6. The CBE to liaise with the Competition Commission on the identified scope of work for each category of registration.	The process to commence on 19 September 2018 and conclude by 31 October 2018
7. CBE to continue with consultation with CBEP on the outcome the CC consultation.	To commence in November 2018 (After consultation with the CC was concluded) and to continue until February 2018
8. Submit to Council second revised Action Plan informed by the CC and CBEP consultations	March 2019

Guideline Professional Fees

1. Different Statutory Mandates
2. Exemption Applications
3. Research Required
4. Way forward



Questions

Thank you

I hope you enjoyed this
presentation

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