



The South African
Council *for* Planners
S A C P L A N

APPEALS AGAINST A DECISION OF THE SACPLAN COUNCIL OR APPEALS AGAINST A DECISION OF THE SACPLAN DISCIPLINARY TRIBUNAL

1. Definitions and Acronyms

The following definitions and acronyms are used in this document and, unless the context specifically dictates differently, same shall have the meanings described hereunder.

- 1.1 “**Act**” means the Planning Profession Act, 2002 (Act 36 of 2002), also referred to as the PPA.
- 1.2 “**Appeal Board**” means the Appeal Board appointed in terms of the PPA
- 1.3 “**Appellant**” means a person or body who has registered a written Appeal against the finding of a Disciplinary Tribunal, or the sentence imposed, or both or a decision of the Council in terms of sections 13 and 14, or a person objecting to a Rule in terms of Section 30(4) of the Act.

- 1.4 **“Code of Conduct”** means the Code of Conduct adopted by SACPLAN in terms of the PPA and published in the Government Gazette. This must be read in the context of the PPA which also pronounces on professional misconduct.
- 1.5 **“Complainant”**: A person or body who has registered a written complaint of alleged professional misconduct against a registered person.
- 1.6 **“Cost Order”** means a cost order as referred to Section 27(3)(c) of the PPA.
- 1.7 **“Council”** means the South African Council for Planners established in terms of the PPA, also referred to as SACPLAN.
- 1.8 **“Day”** means a calendar day, and when any number of days are prescribed for the doing of any act, it must be calculated by excluding the first day and including the last day, however, if the last day falls on a Saturday, Sunday, or Public Holiday, the last day will be the first working day thereafter.
- 1.9 **“Disciplinary Tribunal”** means a tribunal appointed by SACPLAN in terms of the PPA to consider complaints of alleged professional misconduct on the part of registered persons and to conduct disciplinary hearings (where relevant) and to make decisions in regard to any charges of professional misconduct and to impose any sanction following a guilty verdict in terms of the PPA.
- 1.10 **“Investigating Officer”** means a person appointed by SACPLAN to investigate a complaint of professional misconduct. Typically, the Investigating Officer will be a registered person in terms of the PPA with appropriate experience.
- 1.11 **“Investigating Officer’s Report”** means a report prepared by the appointed Investigating Officer following the conclusion of an investigation into alleged professional misconduct resulting from a complaint of a complainant and such

report may include recommendations to be considered by the Disciplinary Committee.

- 1.12 “**Registered Person**” means a person registered as a Professional Planner, alternatively, a Technical Planner, alternatively, a Candidate Planner, as contemplated in the PPA.
- 1.13 “**Respondent**” means a registered person accused of professional misconduct by a Complainant.
- 1.14 “**Rules**” means the Rules adopted by SACPLAN in terms of the PPA and published in the Government Gazette.
- 1.15 “**SACPLAN**” means the South African Council for Planners.
- 1.16 “**Sanction**” means one or more punitive measures imposed against a registered person found guilty of misconduct as contemplated in Section 23 of the PPA.
- 1.17 “**Sworn Affidavit**” means a statement by a party participating in a Disciplinary Hearing or an Appeal process, attested to before a Commissioner of Oaths.

2. Procedures for lodging an Appeal.

- 2.1 The Appellant must lodge the appeal in writing by completing the Notice of Appeal form attached hereto as Annexure A - FORM SAC APP 01.
- 2.2 The appeal must be lodged in the manner prescribed within 30 days after the Council or Disciplinary Tribunal has informed the Appellant of its decision and upon payment of the fees prescribed by the Council.

- 2.3 The appeal document shall clearly state the subject matter of the appeal, the grounds of appeal, whether the appeal relates to findings of fact or law and, where an appeal is noted against a decision of the Disciplinary Tribunal, whether the appeal is noted against the finding of guilty on a charge of improper conduct, the sentence imposed, or both.
- 2.4 The Appeal Board may subpoena witnesses to the matter before it.
- 2.5 The Appeal Board may of its own volition take cognisance of any matter, document or information which would, in its opinion, assist in its consideration of the appeal before it.
- 2.6 Where a hearing is held, at the election of the Appeal Board or where it is prescribed, the registered person must be present at the hearing. If the registered person fails to attend the hearing after notice has been given, and no valid reason for his/her absence is provided to the satisfaction of Appeal Board within the period prescribed by the Appeal Board in terms of the notice issued, the Appeal Board shall be entitled to conduct the hearing in the absence of such a registered person.
- 2.7 The registered person:
- 2.7.1 may be assisted or represented by another person in appearing before the Appeal Board and participating in the related proceedings;
 - 2.7.2 has the right to be heard;
 - 2.7.3 may call witnesses, subject thereto that should any expert witnesses be called, due notice thereof must be given to the Registrar and other parties on record no less than 7 (seven) days before the hearing;
 - 2.7.4 may cross examine any person called as witness in support of the charge;

- 2.7.5 may have access to information produced in evidence; and
- 2.7.6 may produce information subject that due notice of his or her intention to use such information was given to the Registrar and other parties on record no less than 7 (seven) days before the hearing and that the information was clearly identified in such notice.
- 2.8 Save for as far as these Rules or the PPA, in specific terms, prescribe any procedures to be followed by the Appeal Board, the Appeal Board may determine its own procedures.
- 2.9 The Appeal Board may *mero motu* and/or upon good cause shown, condone the failure to comply with any provision of Chapter 6 of the SACPLAN Rules by any of the persons to whom such provisions apply.
- 2.10 Where the appeal is noted under circumstances contemplated in Sections 27(1)(b) or (c) of the PPA, the Appeal Board may elect not to conduct a hearing.

3. Submitting the Appeal

- 3.1 A registered person aggrieved by a finding of a Disciplinary Tribunal, or the sentence imposed, or both; a person aggrieved by a decision of the Council in terms of sections 13 and 14 of the PPA; or a person objecting to a rule who wishes to submit an Appeal is required to follow the steps listed below:

Step 1: Complete the Notice of Appeal form and attest thereto before a Commissioner of Oaths

Form SAC APP 01 attached hereto, has been prepared by SACPLAN for the purpose of assisting the Appellant to provide the required details of the Appeal.

Step 2: Submit the Notice of Appeal form to SACPLAN

The Notice of Appeal form must be submitted to SACPLAN. The appeal must be lodged, in the manner prescribed and upon payment of the fees prescribed by the Council, within 30 days after receipt of the notice from the Council or Disciplinary Tribunal informing the appellant of its decision. A scanned version may be sent via e-mail or posted to the address identified in the form. The Appellant is reminded to provide information on the Grounds of Appeal as well as any supporting documentation. The Appellant must retain the original copy and must provide the Appeal Board with such document on request.

Step 3: Proof of Payment of prescribed fee.

The Appellant must, together with the submission of the Notice of Appeal, submit a copy of the Proof of Payment of the prescribed fee to SACPLAN. The prescribed fee is set out in the SACPLAN Fee Structure available at Please consult the Annual Registration Fees document available under the [Online Registration Forms Tab](#).

Step 4: Attending the Appeal Board Hearing and participation.

The Appellant is required to be present at the Appeal Board hearing (whether represented or not). During the hearing, the parties in attendance will be offered the opportunity to present their respective cases.

The Appeal Board members will be offered the opportunity to pose questions for clarity to the Appellant.

Due to the nature of the Appeal Board hearing, a legal representative of any party will not be permitted to enter into cross-examination of a person presenting his / her case to the Appeal Board except in a case where a person is called as an expert witness. Only questions for clarity will be entertained.

Step 5: Deliberation by Appeal Board

Following the Appeal Board hearing the Appeal Board will deliberate in camera and inform the parties and the SACPLAN Council of its decision in writing.

4. Decision of the Appeal Board

The Appeal Board may:

- (i) dismiss an appeal against a rule, decision, finding or sentence of the Council or the Disciplinary Tribunal and confirm the relevant rule, decision, finding or sentence, or both the finding and the sentence; or
- (ii) uphold an appeal against such a rule or a decision of the Council or the Disciplinary Tribunal wholly or in part and set aside or vary the rule, decision, finding or sentence or both the finding and the sentence and shall, in writing, inform the parties and the Council of its decision and the reasons for it; and
- (iii) award costs as may be just.

For further enquiries, please contact SACPLAN at:

Tel: +27 (11) 318 0460 / 0437

Email: planner@sacplan.co.za

or

refer to the SACPLAN Website at www.sacplan.org.za.

ENCLOSURES:

- Form SAC APP 01: Notice of Appeal