

News from the Association of Test Publishers SA (ATP SA)

May 2009

The Association of Test Publishers South Africa (ATP SA) was founded in 2005, following the proceedings of the April 2005 meeting between the Psychometrics Committee of the Health Professions Council of South Africa (HPCSA) and test publishers. The association has engaged with the Professional Board for Psychology of the HPCSA, on behalf of its members, to improve psychological assessment in South Africa by informing best practice consistent with international trends.

To date, ATP SA has provided input to the HPCSA on their proposal to reclassify instruments currently classified as psychological tests, as well as on the use of internet testing in South Africa. While no outcome has been received from the HPCSA on ATP SA's proposed test classification framework, the HPCSA announced in a recent newsletter that responsibility for the classification of tests still lies with the Human Sciences Research Council (HSRC). The HPCSA has initiated discussions with the HSRC to facilitate the transfer of this function, and noted that stakeholders will be informed of developments.

The status of Internet testing in South Africa

In September 2005 the HPCSA adopted the first version of the *South African Guidelines for Computerised Testing*. This document was broadly based on the International Test Commission's (ITC) guidelines, which ATP SA fully endorsed given the balanced stance, thoroughness of reasoning and ethical orientation of the international guidelines. However the HPCSA unilaterally, and without apparent consideration of input from stakeholders, decided to prohibit the use of unsupervised Internet testing in South Africa. ATP SA as a body objected to the one-sided view and unilateral decision of the HPCSA, and intervened with legal action (Case 4218/07). The outcome of this action was that in April 2007 the HPCSA rescinded its decision to publish the *Guidelines*.

Currently the situation is therefore that there is no legislation in place concerning Internet testing. Legal counsel for the HPCSA confirmed this in a letter to legal counsel for ATP SA dated 12 July 2007, stating: "We further confirm that to the extent that there is no legislation in place at this stage on these two issues [internet testing and the administration of tests by unregistered persons], the Board would not be in a position to take any decision on the guidelines for psychological testing."

Regulation No. R. 1863 of 16 September 1977 clearly states that an act, as referred to in Section 37 (1) of the Health Professions Act 1974 (Act 56 of 1974), may be performed by any person under the supervision, or on the instruction of a Psychologist. For example, a psychologist may instruct candidates to complete assessments online, but the psychologist will still remain accountable for the decision. Given the accumulated research and documentation on best practice in Internet testing – be it supervised or unsupervised – the supervising psychologist can recommend the process of using the Internet for the administration of suitably designed tests.

The use of the Internet for the administration of suitably designed tests is thus legal and an accepted international practice, as long as it is conducted in line with available published international and local best practice and ethical guidelines. ATP SA urges all professionals using Internet assessments to do so guided by their professional ethics.

The Minister's regulations defining the scope of the profession of psychology

ATP SA members may remember the proposed regulations defining the scope of the profession of psychology, published by the Minister of Health in the Government Gazette No. R. 969, 19th October 2007. These proposed regulations would in effect have made alterations to Section 37 of the Health Professions Act, No. 56 of 1974, and revoke previous regulations concerning test classification and delegation. ATP SA consulted legal counsel on the matter and objected to the proposed regulations on the grounds that the making of this regulation was *ultra vires*; amendments to the Act must go through Parliament, and cannot be enacted through the promulgation of regulations by the Minister. Subsequently, on the 16th November 2007 legal counsel for ATP SA sent a letter to the Director General Health, stating ATP SA's objection and grounds for objection to the proposed regulation.

This matter re-emerged with the 16th September 2008 publication of the Government Gazette No. R. 993 and the 10th November 2008 communication from the HPCSA to all test developers and distributors, stating that the use of unregistered persons to render psychological tests was not permissible. ATP SA once again sought legal advice on the matter and, on the same grounds as previously, legal counsel for ATP SA sent a letter to the HPCSA, objecting to the regulation so published. Subsequently, ATP SA received notice of the HPCSA's intention to oppose the objection to the regulation. However, at this point in time the procedural aspects of the matter are still under dispute, as not all the documents referred to by the HPCSA have been provided to ATP SA's legal counsel.

Notice of ATP SA's AGM for 2009

Arrangements are under way for this year's AGM to be held at 14:00 on Tuesday 9th June, at JvR's offices (15 Hunter Avenue, Ferndale, Randburg). The agenda will include an update from ATP SA's lawyers in terms of the current case, as well as a review of the constitution.

If you have any questions regarding the above matters please feel free to contact me.

Kind Regards

A handwritten signature in black ink that reads 'Hennie Kriek'.

Prof HJ Kriek
Chair – ATP SA