

CONSULTANCY AND ENGINEERING SOUTH AFRICA

BY-LAWS WITH EFFECT FROM NOVEMBER 2023

1. REQUIREMENTS FOR MEMBERSHIP

A Firm shall not obtain or retain Membership unless it meets the following requirements for membership in fulfilment of Clause 2.1.7 of the Constitution, namely :

- 1.1 It shall be of such standing and experience as in the opinion of the Board entitles it to practise as a firm of consulting engineers and allied professionals.
- 1.2 It shall conduct its activities in such a manner that its membership does not detract from the dignity or standing of the Organisation.
- 1.3 It shall carry professional indemnity insurance in accordance with Clause 12 hereof.
- 1.4 It shall provide evidence that its designated Mandated Principal/s had either been previously employed in senior positions with existing member firms or were Principals of their own firms prior to joining the firm applying for such membership. Alternately where possible it shall obtain signatures of a Proposer and Seconder who are both Mandated Principals of Members that do not hold any interest in the firm applying for membership. A Mandated Principal may designate an alternate for this purpose where appropriate, provided this delegation is in writing and is carried out separately in each and every instance.
- 1.5 It may, as an alternative to 1.4, request an interview with a member of the Board and/or the Branch Chairman plus one other Registered Principal. Such member of the Board and/or Branch Chairman and other Registered Principal may then testify in a format prescribed by the Board, to the suitability of the applicant for membership.
- 1.6 It may, as an alternative to 1.4 or 1.5, request an interview with the Membership Committee of the Board.
- 1.7 It must be managed by a natural person or legal entity which provides primarily independent technology-based intellectual services in the built, human and natural environment to clients for a fee and which may be any of the following :
 - (a) a Registered Principal who is a sole practitioner; In the case of a sole practitioner, such recognition will be limited to that of Professional Engineer, Professional Technologist or a Professional Technician registered in terms of the Engineering Profession Act of 2000;
 - (b) a Partnership, in which Registered Principals who are the statutory Directors are also registered in terms of the Professional Councils pertaining to their specific areas of expertise, recognised by the Board, with at least one third registered under the Engineering Professions Act of 2000;
 - (c) a company in which Registered Principals, who are the statutory Directors are also, registered in terms of the Professional Councils pertaining to their specific areas of expertise, recognised by the Board, with at least one third registered under the Engineering Professions Act of 2000;
 - (d) A subsidiary or regional office or associate office in South Africa of a foreign firm that:
 - (i) is appropriately registered in South Africa,

(ii) is under full time control of a Registered Principal, and
(iii) in which locally based Registered Principals, are the statutory Directors who are also registered in terms of the Professional Councils pertaining to their specific areas of expertise, recognised by the Board, with at least one third registered under the Engineering Professions Act of 2000 in South Africa or any similar such statutory Engineering body where the company may be headquartered;

Provided always that there shall be excluded from this definition any Firm:

- (i) which engages in or is a subsidiary or holding company of a company which engages in manufacturing or construction such as would in the opinion of the Board tend to influence the exercise of independent judgement of a Principal in such firm in relation to the matters in which the firm provides services and where the project liability is split between planning, design and execution phases of the works; or
- (ii) whose holding company has any other subsidiary which engages in manufacturing or construction unless the Board is satisfied that the independent judgement of the Principals of the firm is not influenced by the interests of such other subsidiary and where the project liability is split between planning, design and execution phases of the works; or
- (iii) which (in the opinion of the Board) is in substance owned by the State or a similar public body or is in substance the design department of a development, manufacturing or construction enterprise; or
- (iv) the ownership of which (in the opinion of the Board) is such as would tend to override the decisions of its statutory Directors and influence the reasonable decisions of the Principals in such firm in the exercise of independent judgement in relation to the technology-based intellectual services provided by such firm; or
- (v) where any persons directly or indirectly participating in the management of the firm are considered unsuitable by the Board which engages in or is a subsidiary or holding company of a company which engages in manufacturing or construction and whose clients are substantially its owners or any other subsidiary of its holding company.

2. ELECTION OF MEMBERS

- 2.1 An application for membership, or to become a Retired Principal, shall be made in writing in such format as shall be approved by the Board from time to time.
- 2.2 Where an application complies with all the requirements of the Constitution, the Membership Committee shall then instruct the Management to circulate to each Member of the Organisation the applicant's name, address and field of activity, and the names of its Mandated Principal and any other principals, indicating that the applicant is recommended for membership, and inviting comment from membership to be submitted in writing within two weeks of the circular having been mailed. Should no adverse comment be received within that period the applicant shall be admitted as a Member.
- 2.3 Where an application is incomplete or the information provided is not clear or raises doubts or where, upon circulation, an objection or adverse comment is received, the Membership Committee shall call for such additional information as it considers necessary, or may request the applicant to give such additional information or explanation by means of an interview.
- 2.4 In deciding not to admit an applicant as a Member, the Membership Committee shall give the reasons for the application not complying with the requirements of the Constitution. The Management shall convey this information to the applicant.
- 2.5 The Membership Committee shall report to the Board at its next meeting on all applications which the Committee has accepted.

- 2.6 Except where an applicant clearly does not comply with the Constitution, the Membership Committee shall not be empowered to refuse any application for membership or for entry in the Register of Retired Principals, but shall refer such application to the Board giving reasons why, in the Committee's opinion, the application should be rejected. The Board shall then deliberate upon the application and give its decision in terms of the Constitution.
- 2.7 In the case of the rejection of any application which has been referred to the Board by the Membership Committee the Management shall advise the unsuccessful applicant in terms to be decided by the Board for each particular case. The Board's decision shall be final.
- 2.8 In the case of the acceptance of an applicant as a Member or Retired Principal, the Management shall notify the successful applicant in writing, notifying the successful applicant of the due fee and subscription, if applicable, and of any prescribed undertaking to be signed and returned.
- 2.9 When the Management has received the required fee and/or annual subscription and the prescribed undertaking, the Management shall enter the applicant's name on the Register of Members or of Retired Principals, as applicable.

3. SIGNIFICATION OF MEMBERSHIP

3.1 Only the following may be used to signify membership of the Organisation:

3.1.1 Member : Member Firm – Consultancy and Engineering South Africa

3.2 Members must disclose on their letterheads that they are members of the Organisation.

3.3 The Board may approve a logo to be known as the CESA logo. The logo shall be used on all the Association stationery as well as in any official communication on behalf of the Association, written or electronic so far as is practicable.

3.4 The logo may be used by any Member in good standing on its letterhead and other documents as well as on any site name board.

4. VOTES OF MEMBERS

The number of votes to which a Member shall be entitled in mailed votes shall be the whole number nearest to the value determined from a formula to be determined by the Board with the approval of the General Meeting each year and applied to the size of the firm on 1 January each year.

5. AFFILIATES

Companies aligned or associated with the Consulting Engineering industry, may be considered as Affiliates of the Association and recognised according to the Category of Affiliation to which they have agreed to and maintained a status of good standing with the Association.

- (i) Such category of recognition shall not have voting rights;
- (ii) Such category of recognition may be terminated should there be any grounds for this based on any potential for compromising the reputation and subsequently the image of the Association;

6. SUBSCRIPTIONS

6.1 Subscriptions and annual subscription reviews shall be determined by the Board with the approval of a General Meeting each year.

6.2 The Management shall base its calculation of annual subscriptions on the information supplied by the Member in its Annual Declaration, which shall be supplied to the Management by 31 January every year. Where the Management has not received the Annual Declaration by 31 January, it shall base its subscription calculation on the information used for the previous year's calculation. The amount so obtained shall then be increased by the annual % increase as determined at the AGM and a 20% (twenty percent) non-refundable penalty imposed for non-timeous return of the Annual

Declaration and the Member invoiced accordingly. If, after receipt of the Annual Declaration, it is found that the amount invoiced was either in excess of or short of the amount determined using the information from the Annual Declaration, the Member's account will be credited or debited, as the case may be, with the necessary adjustment. Such adjustment shall become payable within 30 days of the adjusting invoice.

- 6.3 Should the Member so request, the Management shall calculate, subject to the approval of the Executive Committee, the annual subscription of a group of Firms as one Member.
- 6.4 The Management shall send out annual subscription invoices to all Members at the beginning of March every year. The subscription of Members shall become due on the first day of March each year in respect of the following twelve months. The subscription of a newly elected Member for the current year of his election shall be determined pro rata at the time of election.
- 6.5 if a Member fails to pay its annual subscription within two months of the date of invoice this fact shall be reported to the first Board Meeting following the expiry of the two-month period. The Management may suspend all services to the Member and issue a warning to the Member to the effect that, if the Member's account is not paid in full, including interest charges for late payment, within two months of the date of that Board meeting, the Management will consider expulsion of the Member. If, after the expiry of the two-month warning period, the Member's account has not been settled in full, the Finance Committee may expel the Member and prepare a report to the Board. The Management will remove the Member's name from the Register of Members and cause this fact to be published. The Organisation shall charge interest on late payments of invoices. Such interest shall be calculated from the due date at the Prime Interest Rate being charged by the Organisation's bankers plus 2 percentage points compounded monthly.

7. CODE OF CONDUCT

See Annexure "A" hereto.

8. DISCIPLINE

- 8.1 A Member shall be responsible for any breach of this Code of Conduct by any of its Principals or other personnel.
- 8.2 When the Board reaches the opinion, either of its own initiative or following a report to it by any Member or Client of a Member, that a Member or any of its principals or other personnel may have transgressed any of the rules of conduct, the Member shall be informed and a Committee shall be formed to investigate the matter. The Member shall have full opportunity to state its/his/her case to the Committee who will report to the Board for action. **The Board may, within its discretion, and on reasonable grounds, suspend the membership of the Member provisionally pending the outcome of an investigation into the alleged transgression of any of the rules of conduct, including non-compliance with the Constitution or these Bylaws, and/or access to the evidence to be presented to an external body or court of law, provided that the Member may on request be heard regarding the lifting of the suspension of membership should the suspension be of a duration in excess of 6 (six) months from the date of imposition of such interim suspension.**
- 8.3 The Board, following receipt and consideration of the report of the committee, may discharge or uphold the complaint. If the complaint is upheld the Board may terminate or suspend the membership of the relevant Member or reprimand such Member or levy a fine not exceeding R10 000 on such Member payable in such manner as it may determine including the suspension of the payment of the fine subject to such conditions as it may specify.
- 8.4 No resolution in terms of disciplinary measures shall have any operation or effect unless the Member shall have been given proper opportunity of submitting for the consideration of the Board a statement or explanation in writing and/or of attending a meeting and being heard by the Committee who will report to the Board.
- 8.5 When the Board has acted against any Member in terms of the requirements of the Constitution or By-Laws, the Board shall publish such details of its action as it considers appropriate.
- 8.6 Any Member which is expelled or called upon to resign voluntarily shall return to the Board its Membership Certificate.

9. FORM OF PRACTICE

- 9.1 Members may take any form or structure allowed in law, provided always that the principles of the Constitution are upheld.
- 9.2 The form of practice must be clearly shown on the Member's letterhead.

10. BRANCHES OF THE ORGANISATION

- 10.1 Branches may be established in centres as approved by the Board from time to time.
- 10.2 Branches may be dissolved by Board as it so decides.

11. COMMITTEES OF THE BOARD

- 11.1 The Board shall at the first meeting of a new session following the annual General Meeting convene its first Board Meeting within 90 days to confirm the roles of the various members in respect of Committee assignments for the year ahead.
- 11.2 The Board shall convene a meeting of Council at least three times being either face to face meetings or using teleconferencing or video conferencing technology where available. Further information exchange may take place throughout the year either through direct feedback from the CEO or through the various Branch visits undertaken by the President accompanied by the CEO on an annual basis.
- 11.3 Members of the Board shall serve for the session in which they are elected save that the Board may terminate the appointment of any Member of the Board and may elect a new Member to fill a vacancy so created.
- 11.4 The President shall preside at all meetings of the Board. If the office of the President is vacant or if at any meeting of the Board, the President is not present, the Members present shall choose someone of their number to be Chairman of the meeting. This shall normally be in the following order, namely, the Deputy President, the immediate Past President or any other Member.
- 11.5 The Board shall meet at least four times per year or otherwise at such times as it shall from time to time decide.
- 11.6 Committees of the Board shall meet according to the Committee Terms of Reference as determined by the Board. Committee meeting dates may be altered as directed by the Chair and the majority of the members of the committee, however special effort should be taken to adhere to the prescripts of the Terms of Reference. In the event that the Chair is not available and postponement of any meeting on a regular basis compromises the continuity and functioning of the Committee, the Members shall nominate a Chair from its members to maintain such continuity.
- 11.7 Committees of the Board shall deal only with the business contained in their terms of reference and shall report only to the Board save as the Board may otherwise decide.
- 11.8 Participation in Committees is generally limited to employees of member firms. The Board may however, from time to time approve the participation in Committees of persons no longer in the employ of member firms who have had a longstanding involvement in the Committees of the Organisation should they believe that it would be beneficial to the Organisation and that there would be no conflict of interest arising from the participation of such persons in these Committees;
- 11.9 Notice convening any Committee of the Board meeting shall be given to committee members, and their alternates where alternates are elected, not later than seven days prior to the date determined for such meeting, provided that if no member dissents meetings may be called at shorter notice in special circumstances and/or by telephonic or electronic mail notice.
- 11.10 Questions arising from any meeting of a Committee of the Board shall be decided by a majority of votes and, in case of an equality of votes, the Chairman shall have a casting vote.

- 11.11 The quorum at all meetings of a Committee of the Board shall be applied as described in the Terms of Reference developed for each of these Committees.
- 11.12 The Board may appoint and dissolve ad hoc committees to investigate any matter and may furthermore consider the payment of fees to the members of such committees.

12. MANAGEMENT

- 12.1 The Board shall appoint a Chief Executive Officer and shall have the status of Ex Officio member of the Board. The Chief Executive Officer shall be responsible for the Executive Functions of the Organisation. The Chief Executive Officer shall be responsible for the appointment of a Management Team that shall carry out the day-to-day administration of the affairs of the Association.
- 12.2 The Board shall approve an Organisational Structure reviewed from time to time to meet the requirements of the Strategy of the Association. The Board shall support the Chief Executive Officer in appointing a Management Team according to an approved Organisational Structure, reviewed from time to time to meet the Strategic Objectives of the Association. The final decision on staff appointments however is vested with the CEO.
- 12.3 The Members of the Management shall be salaried staff and shall hold office in keeping with the approved Organisational Structure, the financial performance of the Association, the performance of the incumbent, the Human Resources Policy and adherence to the Labour Relations Act 66 of 1995. No Member of the Management, save for the CEO, shall vote at any Committee meeting.
- 12.4 The Finance Committee, a Committee of the Board, shall constitute a sub-committee, hereinafter referred to as the Remuneration Sub-Committee which shall approve a guideline for Remuneration according to best practice and in comparison with similar Associations and job descriptions in the market that compare favourably with those within the Operational environment of the association. Such Guideline should include immediately quantifiable amounts as well as direct expense claims and other privileges that may be considered as part of the employment conditions of any employee agreed at the time of employment or any time subsequent to that as agreed by the Finance Committee. This guideline shall be contained in the Labour Relations Manual of the Association and may be subject to review from time to time to ensure that it remains current and in keeping with best practice in the interests of attraction and retention of staff employed in the Organisation. Detailed elements of such guideline may be contained in a confidential Annexure to the Manual so as to manage the expectations that may be raised among staff in respect of the non-guaranteed incentives that may be applied from time to time.
- 12.5 The Chief Executive Officer shall be directed by the Board through the President. The CEO may participate in deliberations and may vote on any matter at a meeting of the Board save for any matter which pertains to decisions affecting the CEO directly. The CEO shall be responsible for the general administration of and financial control of the Association's affairs and shall relieve the Board and its Committees as much as possible of any administrative responsibilities except for the providing information to satisfy the Board that sufficient evidence exists to satisfy the members that they are exercising due oversight and upholding their fiduciary duties. The CEO shall represent the Association in discussions with client bodies and outside organisations in keeping with the need to develop and maintain good stakeholder relationships.
- 12.6 The Chief Executive Officer shall act in an advisory capacity to any meeting of the Board or any Committee of the Board and shall attend such meetings as the Board shall from time to time direct.
- 12.7 Management shall acquire or rent and pay such rent for such offices as are necessary to house the Management with the approval of the Board. Management shall acquire such office furniture and equipment as are necessary or beneficial to the efficient discharge of the Organisation's business.

13. PROFESSIONAL INDEMNITY INSURANCE

- 13.1 The Board shall be empowered to recommend to Members of the Association a broker for Professional Indemnity insurance.
- 13.2 The Board shall, from time to time determine the minimum Professional Indemnity insurance cover for Members of the Organisation and provide such determination as an Advisory Practice Note.

13.3 The Board shall request proof of Professional Indemnity insurance from a Member at least once per year.

14. ACCOUNTS

The Organisation's financial year shall, unless otherwise decided by the Board, end as on the last day of February of each year.

15. ANNUAL DECLARATION

15.1 Each year every Member shall submit a declaration signed by the Mandated Principal that the Firm is willing to abide by the Constitution and By-Laws of the Organisation. The Firm shall state its fields of expertise and provide a schedule of its Principals and other required information on an annual questionnaire. Care should be taken that all contact details are maintained as current and should there be changes to these during the course of the year, such changes are to be formally communicated to the Organisation.

15.2 The Management shall send out the Annual Declaration questionnaire on or before 1 December every year. These forms shall be completed by Members and returned so as to reach the Association's office by no later than 31 January. In addition the Management shall inform such Members in writing of the consequences of not submitting their Annual Declarations. Any member whose Annual declaration has not been received by 31 March shall not be listed in the Directory. The name of every Member whose Annual Declaration has not been received by 31 March shall be reported to the first Board Meeting following 31 March. The Management shall issue a warning to each affected Member to the effect that, if its Annual Declaration has not been received within one month of the date of that Board Meeting, the Board will consider termination of its membership. If, after the expiry of the one-month warning period, the Annual Declaration has not been received, the Membership Committee may suspend all services to the Member and prepare a report to the Board. If, by the date of the next Board Meeting, the Member's Annual Declaration has still not been received, Board may expel the Member and instruct the Management to remove the Member's name from the Register of Members and cause this fact to be published.

15.3 Membership declarations submitted annually shall contain details of relevant contact persons, office locations, disciplines of consulting engineering services offered and any other reasonable information that may assist the Association with any statistical analyses that may be required to measure the success of the Association's ability to achieve the objectives determined by the Board from time to time. Such details may also be included in the Association's Directory of Member Firms published annually.

15.4 An office where at least one professionally registered person designated as a fulltime Branch Manager shall be listed in such declaration. Alternately, such offices designated as a fulltime office, where no professionally registered person is a fulltime Manager, may also be declared as a satellite office.

Whereas changes to the Constitution requires ratification at an AGM or a Special AGM of a quorum of members, following the consideration of such changes by the Board and subsequent submission to such AGM, these By Laws may be amended from time to time with the approval of the Board without requiring such ratification, provided that such changes are not in conflict with the Constitution of the Organisation.