

BOARD NOTICE 86 OF 2005

**All interested parties and persons are invited
to submit comments on the
Rules of Conduct for Registered persons published below.**

**Comments should be submitted
on or before 06 October 2005**

to George Moroasui

E-mail: george@ecsa.co.za

Tel: (011) 607-9521

Fax: (011) 607-9547

Private Bag X691, Bruma, 2026

**Rules of Conduct for Registered Persons:
Engineering Profession Act, 2000
(Act No. 46 of 2000)**

The Engineering Council of South Africa hereby, in terms of section 36 (2) of the Engineering Profession Act, (Act No. 46 of 2000), makes known that it has under section 27 of that Act, made the rules in the Schedule.

SCHEDULE

Objectives

1. The objectives of this Schedule are to ensure that *registered persons* -
 - (1) apply their knowledge and skill in the interests of humanity and the environment;
 - (2) execute their work with integrity, sincerity and in accordance with generally accepted norms of professional conduct;
 - (3) respect the interests of their fellow being and honour the standing of the profession;
 - (4) continuously improve their professional skills and those of their subordinates;
 - (5) encourage excellence within the engineering profession.

Definitions

2. In this Schedule any expression or word that has been defined in *the Act* has that meaning, and unless the context otherwise indicates -
 - (i) “**business undertaking**” means any business enterprise or entity, joint venture, consortium, association or any such organisation or entity including private consulting practice operating under the style of a partnership, a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), or a close corporation registered in terms of the Close Corporation Act, 1984, (Act No. 69 of 1984); and
 - (ii) “**Council**” means Engineering Council of South Africa established by section 2 of *the Act*;
 - (iii) “**information**” includes drawings, designs, records, reports, specifications, calculations, contractual documents, built-records or plans and any other documents, including electronic data, that form part of any of the records relating to *work*;
 - (vi) “**registered persons**” means persons registered in terms of *the Act*;
 - (vii) “**the Act**” means the Engineering Profession Act, 2000 (Act No. 46 of 2000);
 - (viii) “**work**” means any engineering work normally carried out by *registered persons* in the practice of their profession.”

Rules of Conduct: Ethics

3. *Registered persons* in fulfilling the objectives contemplated in clause 1 above must comply with the following rules-

Competency

3(1) *Registered persons*:-

- (a) must discharge their duties to their employers and/or clients effectively with skill, efficiency, professionalism, knowledge, competence, due care and diligence;
- (b) may not undertake or offer to undertake *work* of a nature for which their education, training and experience have not rendered them competent to perform;
- (c) must, when providing *work*, engage in and adhere to acceptable practices.

Integrity

3(2) *Registered persons*:-

- (a) must discharge their duties to their employers and/or clients with integrity, fidelity and honesty;
- (b) must not undertake *work* under conditions or terms that would compromise their ability to carry out their responsibilities in accordance with acceptable professional standards;
- (c) must not engage in any act of dishonesty, corruption or bribery;
- (d) must disclose to their employers and/or clients, or prospective employers or clients, in writing: -
 - (i) Any interest, whether financial and/or otherwise, which they may have in any undertaking, or with any person, and which is related to the *work* for which they may be or have been employed; and
 - (ii) particulars of any royalty or other benefit which accrues or may accrue to them as a result of the *work*;
 - (iii) the status pertaining to professional indemnity insurance cover, and the limit of the cover if they are insured when so requested
- (e) may not, either directly or indirectly, receive any gratuity, or commission or other financial benefit on any article or process used in or for the purpose of the work in respect of which they are employed, unless such gratuity, commission or other financial benefit has been authorised in writing by the employer and/or client concerned;
- (9) must avoid any perceived, real or potential conflict of interest;

- (g) may not knowingly misrepresent, or permit misrepresentation of their own academic or professional qualifications or competency or those of any other person involved with *work*, nor knowingly exaggerate their own degree of responsibility for any *work* or that of any person;
- (h) must give engineering decisions, recommendations or opinions that are honest, objective and based on facts.
- (i) may neither personally nor through any other person, improperly seek to obtain *work*, or by way of commission or otherwise, make or offer to make payment to a client or prospective client for obtaining such work;
- (j) may not, unless required by law or by these Rules, divulge any *information* of a confidential nature which they obtained in the exercise of their duties;
- (k) must notify *Council* immediately if they become aware of a violation of these Rules by any other *registered person*;
- (l) must without delay notify *Council* if they become subject to one or more of the following:
 - (i) Removal from an office of trust on account of improper conduct;
 - (ii) Being convicted of an offence and sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine **or** imprisonment or both.

Public Interest

3(3) Registered persons: -

- (a) must at all times give due regard and priority to health, safety and public interest;
- (b) must when employed to provide professional advice to a client, advise the client of the consequences. Where such advice is not accepted by the client he must inform relevant authorities of that fact if such consequences constitute risk to public health. Safety and interest
- (c) must report to the appropriate authority any situation where the health, safety and the interest of the public *is* considered to be at risk;
- (d) must without delay notify *Council* if they become subject to one or more of the following:
 - (i) being declared by the High Court to be of unsound mind **or** mentally disordered, or being detained in terms of the Mental Health Act , 1973, or being declared medically unfit to practice as a *registered person*; and
 - (ii) Being declared insolvent and whose insolvency was caused through negligence or incompetence in performing **work**.

Environment

3(4) *Registered persons must at all times -*

- (a) have due regard for and in their work avoid adverse impact on the environment; and
- (b) adhere to generally accepted principles of sustainable development.

Dignity of the Profession

3(5) *Registered persons: -*

- (a) **must** order their conduct so as to uphold the dignity, standing and reputation of the profession;
- (b) may not, whether practising their profession or otherwise, knowingly injure the professional reputation or business of any other *registered person*;
- (c) must provide work or services of quality and scope, and to a level, which is commensurate with accepted standards and practices in the profession;
- (d) may not knowingly attempt to supplant a *registered person* in a particular engagement after the client has employed such *registered person*;
- (e) may not advertise their professional services in a self-laudatory manner that is derogatory to the dignity of the profession;
- (f) may not review for a particular client *work* of another *registered person*, except -
 - (i) with the prior knowledge of the other *registered person*, who must be afforded a reasonable opportunity to submit comments to the client on the findings of the review; or
 - (ii) after receipt of a notification in writing from the client that the engagement of the other *registered person* has been terminated; or
 - (iii) where the review is intended for purposes of a court of law or other legal proceedings, including proceedings arising from these Rules.

Rules of Conduct: Administrative

4(1) *Registered persons: -*

- (a) may not without satisfactory reasons destroy or dispose of, or knowingly allow any other person to destroy or dispose of, any *information* within a period of 10 years after completion of the work concerned;

- (b) may not place contracts or orders, or be the medium of payments, on their respective employer's or client's behalf without the written authority of the employers or clients;
- (c) may not issue any **information** in respect of **work** prepared by them or by any other person under their direction or control, unless -
 - (i) such **information** bears the name of the organisation concerned; and— _____
 - (ii) **information** so issued is dated and signed by the **registered person** concerned or another appropriately qualified and authorised person;
- (d) must order their conduct in connection with **work** outside the borders of the Republic of South Africa in accordance with these rules in so far as they are not inconsistent with the law of the country concerned: Provided that where there are recognised standards of professional conduct in a country outside the Republic, they must adhere to those standards in as far as they are not inconsistent with these rules.
- (e) must always ensure adequate supervision of and take responsibility for work carried out by their subordinates;
- (f) must ensure that, while engaged as partners, directors, members or employee of a **business undertaking** which performs **work**, the control over the **work** is exercised, and the responsibility in respect thereof is carried out by a **registered person** other than a person registered as a candidate in terms of section 18 (1)(b) of the Act;
- (g) must, when requested by the **Council** to do so, in writing provide the **Council** with all the information available to them which may enable the **Council** to determine which **registered person** was responsible for any act which the **Council** may consider **prima facie** to be improper conduct;
- (h) must notify **Council** without delay of any change of his or her physical address
- (i) must within 30 days respond to correspondence received from clients, colleagues and **Council** in so far as it relates to **work** or proceedings in terms of these **Rules**.

Repeal of Rules

5. The rules published in Board Notice 107 of 1997 are hereby repealed, subject to section 12(2) of the Interpretation Act, 1957 (Act No. 33 of 1957).

Short title

6. This Schedule is called the Code of Conduct for Registered Persons.
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