

BOARD NOTICE 50 OF 2006**The Engineering Council of South Africa****CALL FOR COMMENT****PROPOSED RULES RELATING TO THE ESTABLISHMENT OF A
SPECIFIED CATEGORY OF REGISTRATION FOR
REGISTERED LIFTING MACHINERY INSPECTORS**

In terms of Section 36(2) of the Engineering Profession Act, 2000 (Act No. 46 of 2000) the Engineering Council of South Africa hereby makes known that it intends to prescribe Rules, as set out in the Schedule, in terms of Section 36(1) of the Act.

Written comments on the **proposed** Rules are invited from interested persons or stakeholders.

Comments can be submitted as follows:

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The closing date for comments to be submitted:

30 JUNE 2006

25 May 2006

ENGINEERING PROFESSIONACT, 2000 (ACT 46 OF 2000)**RULES IN TERMS OF SECTION 18(1)(c)****SPECIFIED CATEGORY:
REGISTERED LIFTING MACHINERY
INSPECTORS**

The Engineering Council of South Africa, has in terms of section 18(1)(c) of the Engineering Profession Act, 2000 (Act 46 of 2000) made the rules set out in the Schedule.

The Rules set out in the Schedule come into operation on the date of publication in the Government Gazette.

SCHEDULE*Definitions*

1. In these rules, and unless the context otherwise indicates, any expression or word to which a meaning has been assigned in the Engineering Profession Act, 2000, (Act no. 46 of 2000) bears the same meaning and-
 - (i) **“Education Advisory Committee”** means the education advisory committee established by the Council in terms of section 17(1)(a) of the Act, to advise on all aspects of engineering education applicable to all categories of registration contemplated in section 18(1) of the Act;
 - (ii) **“Education Committee: Registered Lifting Machinery Inspectors”** means the education committee for registered lifting machinery inspectors established in terms of section 17 of the Act, and for purposes of these rules, **“education committee”** has the same meaning;
 - (iii) **“Engineering Standards Generating Body”** means the committee responsible to the Council and the South African Qualifications Authority (SAQA) for setting standards pertaining to engineering qualifications in the higher education band, and **“ESGB”** has the same meaning;

(iv) "**FET College**" means a Public or a Private Further Education and Training College established under the Further Education and Training Act, 1998 (Act No. 98 of 1998);

(v) "**Registration Committee: Registered Lifting Machinery Inspectors**" means the registration committee for registered lifting machinery inspectors established in terms of section 17 of the Act, and for purposes of these rules, "registration committee" has the same meaning;

(vi) "**registered lifting machinery inspector**" means a person registered as such in terms of these rules;

(vii) "**registered person**" means any person registered in any category of registration referred to in section 18 of the Act and any person registered as a registered lifting machinery inspector in terms of these rules;

(viii) "**specified category**" for purposes of these rules, means the category of registration pertaining to registered lifting machinery inspectors, contemplated under section 18(1)(c) of the Act, and established in terms of Rule 2.

(ix) "**Technology Accreditation Committee**" means the accreditation committee responsible to the Council for accreditation of educational programmes contemplated under the Sydney Accord, and "**TAC**" has the same meaning;

(x) "**the Act**" means the Engineering Profession Act, 2000 (Act 46 of 2000).

(xi) "**the register**" means a sub-register of registered lifting machinery inspectors, incorporated in a register kept by the Council in terms of section 11(c) of the Act,

ESTABLISHMENT OF SPECIFIED CATEGORY : REGISTERED LIFTING MACHINERY INSPECTORS

- 2 A specified category called "Registered Lifting Machinery Inspector" is hereby established in terms of section 18(1)(c) of the Act.

REGISTRATION COMMITTEE: REGISTERED LIFTING MACHINERY INSPECTORS

3. (1) A registration committee to be known as the *Registration Committee: Registered Lifting Machinery Inspectors* is hereby established in terms of section 17(1) of the Act.

Composition of the Registration Committee: Registered Lifting Machinery Inspectors

- (2) The registration committee consists of at least 14 persons, appointed by the Council, of whom -
- (4) two registered persons must be nominated by the Council, who must have knowledge of the Act, applicable rules, policies, code of conduct and code of practice;
 - (b) one registered person must be nominated by the Chief Inspector: Occupational Health and Safety of the Department of Labour;

- (c) one registered person must be in the service of the South African Bureau of Standards nominated by the Director of Mechanical and Electrical Engineering of the Bureau of Standards;
- (d) two registered lifting machinery inspectors must be nominated by the Lifting Equipment Engineering Association of South Africa (LEEASA), with experience and knowledge in the manufacture, installation, testing, commissioning and inspection of lifting machinery;
- (e) two registered lifting machinery inspectors must be nominated by the manufacturers of lifting machinery, who are invited by the Council to do so;
- (g) three registered lifting machinery inspectors must be nominated by the major users of lifting machinery, who are invited by the Council to do so; and
- (g) three registered lifting machinery inspectors must be nominated by companies undertaking inspections, who are invited by the Council to do so.

Disqualification from Membership of Committee and Vacation of Office

- (3) (a) A person must not be appointed as a member of the registration committee if the –
 - (i) applicable provisions of rule 3(2) of these rules are not complied with;
 - (ii) provisions of section 6(1)(b), (c), (d), (e) and (9) of the Act are not complied with.
- (b) Any person appointed as a member of the registration committee must vacate his or her office if he or she –
 - (i) ceases to meet any one or more of the applicable prerequisites for appointment referred to in rule 3(3)(a);
 - (ii) is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (Act No. 18 of 1973);
 - (iii) has been absent from two consecutive meetings of the committee without its leave.
 - (iv) ceases to be formally associated with, in the employ of, or being the recognised representative, as the case may be, of the organisation which nominated him or her in terms of the applicable provisions of rule 3(2).

Election of Chairperson and Vice-Chairperson of the Registration Committee

- (4) (a) The members of the registration Committee must, at the first meeting of the committee, and thereafter as the occasion arises, elect from amongst their number a chairperson and vicechairperson, who must hold office until the expiry of the period for which the Council was appointed.

- (b) A person may not be elected as chairperson or as vicechairperson in terms of rule 3(4)(a) unless such person is a registered lifting machinery inspector.
- (e) The chairperson or, in the event of his or her incapacity, the vice-chairperson must act as chairperson of any meetings of the registration committee: Provided that if the chairperson and vice-chairperson are absent from any meeting of the committee or not be able to preside, the members present must elect a registered lifting machinery inspector from amongst their number to preside at that meeting and the person so elected may, during that meeting and until the chairperson or vice-chairperson resumes duty, perform all the duties of the chairperson.

Period of Office of Members of the Registration Committee

- (5) (a) Every member of the registration committee holds office until the expiration of the period for which the Council is appointed.
- (b) Whenever a member vacates office before the expiration of the period for which he or she was appointed, the Council may, subject to the provisions of rule 3(2), appoint another person to fill the vacancy for the unexpired portion of the period for which such member was appointed.

Quorum and Procedure at Meetings of the Registration Committee: Registered Lifting Machinery Inspectors

- (6) (4) Six members of the registration committee actually appointed in terms of rule 3(2), referred to as the full committee for purpose of this rule, constitute a quorum.
- (b) In the event of an equality of votes at any meeting of the registration committee, the chair or any person presiding as chair in terms of these rules, has a casting vote in addition to a deliberative vote: Provided that the chair, or the person so presiding, does not have a casting vote when a recommendation for refusal of an application for registration is considered.
- (c) No decision taken or act performed under the authority of the registration committee, is invalid by reason only of a vacancy on such committee or of the fact that a person who was not entitled to sit as a member of the committee sat as a member at the time when the decision was taken or the act was authorised by the requisite majority of the members of the committee who were present at the time and entitled to sit as members.
- (d) All meetings of the registration committee may be held at such times and places as may be fixed by the Committee: Provided that if at the close of any meeting the committee has not fixed the time and place for its next meeting, such time and place must be determined by the chair of the committee.
- (e) Every member of the registration committee must be given not less than two weeks' notice, in writing, of every meeting of the committee.
- (f) If a member of the registration committee who is present at a meeting of the committee does not agree with a resolution of the committee passed at such a meeting, he or she may request that his or her dissension, with or

without the reasons therefor, be recorded in the minutes and **the** person presiding at such a meeting must ensure that such request **be so** recorded.

- (g) The chair of the registration committee may, subject to the provisions of sub-rule (6)(e) at any time call a special meeting of **a** registration committee to be held at such time and place as he or she may determine.

Functions of the Registration Committee

- (7) (a) The registration committee may consider and decide **on** applications for registration: Provided that any decision to refuse the registration of **a** person must be submitted to the Central Registration Committee of the Council for approval: Provided further that any decision to register **a** person **as a** registered lifting machinery inspector, or as a candidate lifting machinery inspector must be reported to the Central Registration Committee at **the** earliest opportunity.
- (b) The registration committee may **determine** the requirements for registration as a registered lifting machinery inspector: Provided that the requirements so determined must be approved by the Council, or any committee of **the** Council specifically authorised by the Council to do **so**.
- (c) The registration committee has the power to assist the Council generally **in** the performance of its functions and duties and specifically in **regard to** matters specially pertaining to the specified category **of** registered **lifting** machinery inspectors.

REGISTRATION OF REGISTERED LIFTING MACHINERY INSPECTORS

4. The provisions of section 19 of the **Act**, with the necessary changes, apply in respect of **a** person who desires to be registered as a registered lifting machinery inspector in terms **of** section 19(2)(a), or as a candidate lifting machinery inspector in terms of section 19(2)(b), as the case may **be**,

CANCELLATION OF REGISTRATION

5. The provisions of sections 20 and 23 of the Act apply in respect of **a** person registered **in** terms of these rules.

RENEWAL OF REGISTRATION

6. The provisions of section 22 of the Act apply in respect of **a** person registered in terms **of** these rules.

AUTHORISED TITLES AND ABBREVIATIONS

7. (1) A person who is registered as **a** registered lifting machinery inspector in terms **of** these rules may describe himself or herself **as** such and use the title "Registered

Lifting Machinery Inspector", and may affix the abbreviation "Reg.Lift.Mach.Insp." after his or her name.

- (2) A person who is registered as a candidate lifting machinery inspector in terms of these rules may describe himself or herself as such.

EDUCATION COMMITTEE: REGISTERED LIFTING MACHINERY INSPECTORS

8. (1) *An education committee to be known as the Education Committee: Registered Lifting Machinery Inspectors* is hereby established in terms of Section 17 of the Act.

Composition of the Education Committee: Registered Lifting Machinery Inspectors

- (2) The education committee consists of **10** persons, appointed by the Council, of whom -
- (a) **one** must be a member of the engineering academic staff at a *FET college*, with a background in mechanical and/or electrical engineering, who must be a person nominated by the Association of Further Education and Training in South Africa (AFETISA);
 - (b) **one** must be a member of the engineering academic staff at a technology education provider, with a background in mechanical and/or electrical engineering, and who must be nominated by Higher Education South Africa (HESA);
 - (c) **one** registered person must be nominated by the Chief Inspector: Occupational Health and Safety of the Department of Labour, and who must be employed in a senior capacity in that Directorate;
 - (d) **one** registered lifting machinery inspector must be nominated by the Contractors Plant Hire Association (CPHA);
 - (e) **two** practicing registered lifting machinery inspectors must be nominated by the Lifting Equipment Engineering Association of South Africa (LEEASA), and who must have experience in the lifting machinery industry;
 - (f) **one** registered lifting machinery inspector must be designated by the *Registration Committee: Registered Lifting Machinery Inspectors*;
 - (g) **one** registered person must be in the service of the South African Bureau of Standards, and who must be nominated by the Director of Mechanical and Electrical Engineering of the Bureau of Standards; and
 - (h) **two** registered lifting machinery inspectors must be nominated by major *users* of lifting machinery or companies undertaking lifting machinery inspections, who are invited by the Council to **do so**.

Disqualification from Membership of Committee and Vacation of Office

- (3) (a) A person must not be appointed as a member of the education committee if the-
- (i) applicable provisions @ rule 8(2) of these rules are not complied with;
 - (ii) provisions of section 6(1)(b), (c), (d), (e) and (9) of the *Act* are not complied with.
- (b) Any member of the education committee must vacate his or her office if he or she-
- (i) ceases to meet any one or more of the applicable pre-requisites for appointment referred to in rule 8(3);
 - (ii) is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (*Act* No. 18 of 1973);
 - (iii) has been absent from two consecutive meetings of the education committee without its leave;
 - (iv) ceases to be formally associated with, in the employ of, or being the recognised representative, as the case may be, of the organisation or group of organisations which nominated him or her in terms of the applicable provisions of rule 8(2).

Election of Chairperson and Vice-Chairperson of the Education Committee: Registered Lifting Machinery Inspectors

- (4) (a) The members of the education committee must at the first meeting of the committee, and thereafter as the occasion arises, elect from among their number a chairperson and a vice-chairperson, who must hold office until the expiry of the period for which the Council is appointed.
- (b) A person may not be elected as chairperson or as vice-chairperson in terms of rule 8(4)(a) unless such person is a registered lifting machinery inspector.
- (c) The chairperson or, in the event of his or her incapacity, the vice-chairperson must act as chairperson of any meetings of the committee; Provided that if such chairperson and vice-chairperson are absent from any meeting of the committee, or not able to preside, the members present must elect one of their number to preside at that meeting and the person so elected to preside may during that meeting and until the chairperson or vice-chairperson resumes duty, perform all the duties of the chairperson.

Period of Office of Members of the Education Committee: Registered Lifting Machinery Inspectors

- (5) (1) Every member of the education committee holds office until the expiration of the period for which the Council is appointed.

- (2) Whenever a member vacates ~~office~~ before the expiration of the period for which he or ~~she~~ was appointed, the Council may, subject to the provisions of rule 8(2), appoint another person to fill the vacancy for the un-expired portion of the period for which such member was appointed.

**Quorum and Procedure at Meetings of the
Education Committee: Registered Lifting Machinery Inspectors**

- (6) (a) Five members of the education committee actually appointed in terms of rule 8(2) constitute a quorum of the committee.
- (b) In the event of an equality of votes at any meeting of the education committee, the chairperson or any person presiding as chairperson in terms of these rules, has a casting vote in addition to a deliberative vote: Provided that the chair, or the person so presiding, does not have a casting vote when a recommendation for withdrawal of accreditation or recognition of an educational programme is considered.
- (c) No decision taken or act performed under the authority of the education committee, is invalid by reason only of a vacancy on the committee or of the fact that a person who was not entitled to sit as a member of the committee sat as a member at the time when the decision was taken or the act was authorised by the requisite majority of the members of the committee who were present at the time and entitled to sit as members.
- (d) All meetings of the committee must be held at such times and places as may be fixed by the committee: Provided that the committee may not meet less than twice in every year: Provided further that if at the close of any meeting the committee has not fixed the time and place for its next meeting, such time and place must be determined by the chairperson of the committee.
- (e) Every member of the committee must be given not less than two weeks notice, in writing, of every meeting of the committee.
- (f) If a member of the committee who is present at a meeting of the committee does not agree with a resolution of the committee passed at such a meeting, he or she may request that his or her dissension, with or without the reasons therefor, be recorded in the minutes and the person presiding at such a meeting must ensure that such request is so recorded.
- (g) The chairperson of the committee may, subject to the provisions of rule 8(6)(e), at any time call a special meeting of the committee to be held at such time and place as he or she may determine.

Functions of the Education Committee: Registered Lifting Machinery Inspectors

- (7) (a) The education committee must assist the *Education Advisory Committee*, the *Technology Accreditation Committee (TAC)* and the *Engineering Standards Generating Body (ESGB)* of the Council generally in the performance of their functions and duties in terms of the Act and, for purposes of these Rules, primarily in regard to matters pertaining to the education and qualifications of persons in the lifting machinery industry, and

to consult with or to co-opt such persons whose knowledge and **expertise** may be required for purposes of executing a task or making a decision.

- (b) In more specific terms, the education committee may -
- (i) consider and make recommendations to the **Education Advisory Committee**, through the **TAC** and the **ESGB**, on matters of **policy** relating to educational programmes and examinations aimed at qualifying persons for registration as registered lifting machinery inspectors, to draw up and to maintain guidelines on matters of **policy**;
 - (ii) compile and maintain a list of persons whom the education committee, in consultation with the or **TAC**, considers eligible for appointment as members of any accreditation team and to consult with such institutes and other committees of Council as it may consider expedient for purposes of establishing and maintaining such list of eligible persons;
 - (iii) assist the **TAC** in appointing accreditation teams for **individual** programmes, team leaders and, in the case of accreditation of technology educational programmes, provide **such** additional support as may be necessary to meet the objectives contemplated in these rules;
 - (iii) assist the **ESGB** with the generation of appropriate unit standards and assessment guidelines.

PROFESSIONAL CONDUCT

9. Any person who is registered in terms of these rules must comply with the applicable **Code of Conduct**, or **Code of Practice** as prescribed by the Council from time to time, and **failure** to do so constitutes improper conduct in terms of section 27(3) of the **Act**.

INVESTIGATION INTO IMPROPER CONDUCT, PUNISHMENTS AND APPEALS AGAINST DECISIONS OF COUNCIL

10. (1) Subject to rule 10(3), the provisions of sections 28, 29, 30, 31, 32 and 33 of the **Act** apply in respect of a person registered in terms of these rules.
- (2) The Investigating Committee referred to in section 28 of the **Act** may take **such** steps as may be necessary to collaborate with the Directorate: Occupational Health and Safety of the Department of Labour, with the **view** to investigating incidents involving registered persons, in terms of Sections 31 or 32 of the Occupational Health and Safety Act, 1993, as the case may **be**.
- (3) If a fine is imposed by a disciplinary tribunal under section 32(3)(1) of the **Act** and the registered person is unable to pay the fine in full within 30 days, **the** registered person may, -
- (a) if the disciplinary tribunal is still in session, make representations to **the** tribunal, which may refuse or allow payment of the fine by installments

and, if such dispensation is allowed, the tribunal may determine the period within which the fine must be paid; or

- (b) within 14 days after conclusion of the proceedings, make representations to the chairperson of the tribunal, who may allow payment of the fine by installments and may determine the period within which the fine must be paid.
- (4) (a) If in the chairperson of the tribunal referred to in rule 10(3)(b) is of the opinion that payment of a fine by installments should not be allowed, *such* chairperson must obtain a majority vote in favour of such refusal from the members of the tribunal and inform the person applying for dispensation without delay.
- (b) The disciplinary tribunal's decision, whether or not to allow payment of the fine in installments, is final.
- (5) If a registered person having been fined fails to pay the fine within the prescribed 30 days or fails to pay any of the installments granted in Rule 10(3)(a) or (b), the Council may –
 - (a) recover the amount of the fine by due process of law in a competent court; and
 - (b) suspend the person's registration in terms of the Act, until such time as the amount of the fine has been paid in full.

PROHIBITION CLAUSES

- 11. (1) Any person who is not registered as a Registered Lifting Machinery Inspector may not ~~carry out~~ the inspection of lifting machinery, as contemplated in Sections 18(5) or (6) of the Driven Machinery Regulations, published under Government Notice R925 of 26 February 1988 in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).
- (2) Any person who is not registered as a Registered Lifting Machinery Inspector may not practice in a manner that is contrary to the provisions of rule 11(1) and section 18(2) of the Act, and may not use the title or abbreviation prescribed in rule 7(1).
- (3) The provisions of section 26(3)(b), (c) and (d) of the Act, with the necessary changes, apply in respect of a person who is not registered as a registered lifting machinery inspector.
- (4) A person who is registered as a candidate lifting machinery inspector may not, as contemplated in Section 18(4) of the Act, perform lifting machinery inspections unless such inspections are performed under the supervision and control of a registered lifting machinery inspector.
- (5) A registered lifting machinery inspector may not, as contemplated in Section 18(3) of the Act, practice in a consulting capacity which is not restricted to matters relating to lifting machinery inspections.

OFFENCES AND PENALTIES

12. (1) The provisions of section 21 of the Driven Machinery Regulations **published under** Government Notice 295 of 26 February 1988 apply in respect of a person who contravenes section 18(5) or 18(6) of the Driven Machinery Regulations.
- (2) The provisions of Section 41 (1) and (3) of the Act apply in respect of a person who contravenes rule 11(2) and (3).

IMPROPER CONDUCT

13. Any person who contravenes rules 11(4) or 11(5) is guilty of improper **conduct** in terms of section 27(3) of the **Act**.
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