

BOARD NOTICES • RAADSKENNISGEWINGS

BOARD NOTICE 40 OF 2017

ENGINEERING COUNCIL OF SOUTH AFRICA

**Engineering Council of South Africa (ECSA)****APPEALS AGAINST DECISIONS OF ECSA****SCHEDULE****1. Definitions**

1.1 In these rules, unless the context otherwise indicates:

1.1.1 “**Act**” means the Engineering Profession Act No. 46 of 2000.

1.1.2 “**Appeal**” means applying to a higher body for a reversal of the decision of a lower body, to which it has jurisdiction over.

1.1.3 “**Appellant**” means a person who applies to a higher body for a reversal of a decision of a lower body

1.1.4 “**CBE**” means the Council for the Built Environment established in terms of section 2 of the Council for the Built Environment, Act No.43 of 2000.

1.1.5 “**Chairperson**” means the president of Council or his delegate.

1.1.6 “**Chief Executive Officer**” (CEO) means the person appointed as chief executive officer in terms of section 8(1)(a) of the Act.

1.1.7 “**Council**” means the Engineering Council of South Africa established in terms of section 2 of the Act.

- 1.1.8 **“Committee of first instance”** means the committee or tribunal that made the decision which gave rise to the appeal being lodged.
- 1.1.9 **“Days”** means calendar days, including the first day and excluding the last.
- 1.1.10 **“Expert”** In respect of section 24 appeals, means a person registered as a professional in terms of section 18(1)(a)(i-iv) and (c) in the discipline of the appellant, a former member of the registration committee/professional/advisory committee who understands the assessment policies and procedures applied in the category and discipline of the appellant. In respect of section 33 appeals, means a person registered as a professional/registered person in terms of section 18(1)(a)(i-iv) and (c) with at least 10 years’ experience in the category and discipline of the appellant or an admitted Attorney or Advocate with at least 10 years’ experience.
- 1.1.11 **“Notice of appeal”** means written notification on the prescribed ECSA form, setting out the grounds for the appeal and all relevant arguments, information and documentation in support thereof.
- 1.1.12 **“Parties”** means Council and the appellant.
- 1.1.13 **“Review Committee”** means a committee established in terms of section 17 of the Act, constituted of members with relevant expertise in relation to the appeal lodged; in order to gather evidence and provide advice to the parties.

2. Appellant

- 2.1 In terms of a section 24(1) of the Act, an appellant is an applicant who is of the opinion that a committee in refusing registration or has cancelled registration, other than a cancellation in terms of section 20 (1) (a) (iii) or 32 (3) (a) (iv) of the Act, did not comply with section 33 of the Constitution.
- 2.2 In terms of section 33(1) of the Act, an appellant is a registered person found guilty of improper conduct by a disciplinary tribunal.
- 2.3 In term of section 35(1) of the Act, an appellant is any member of the public whose interests and rights are affected by a decision made by the Council; however they must appeal directly to the CBE or the appropriate High Court.

3. Valid appeal

An appellant must appeal within 30 days of becoming aware in writing; of the decision of the committee of first instance and on payment of the prescribed appeal fee.

4. Procedure for lodging an appeal

- 4.1 The appellant must lodge the appeal in writing by completing the Notice of Appeal form, attached hereto as Annexure A.
- 4.2 The appeal must be addressed to the CEO and sent to legal@ecsa.co.za and siphiwe@ecsa.co.za.
- 4.3 The CEO, calls for the Review Committee to sit within 14 days of receipt of a valid appeal. The Review Committee would be constituted of, two registered persons of relevant discipline and one legal practitioner who will be the chairperson. The Review Committee must be constituted of neutral persons who were not part of the committee of first instance. The appellant and the chairperson of the committee of first instance would be invited to make submissions.
- 4.4 The Review Committee would then deliberate on the matter and make a recommendation to the parties, within 5 days.
- 4.5 The appellant would have the option to proceed to have the appeal heard by Council or accept the outcome of the Review Committee as final.
- 4.6 Should the appellant choose to have the appeal heard by Council, ECSA must be notified in writing within 3 days.
- 4.7 The entire appeal record i.e. submissions made by the parties to the Review Committee and the report from the chairperson of the Review Committee, would then be sent to Council for consideration at its first ensuing meeting or within 60 days from the date of the receipt of the appeal (4.3 above).
- 4.8 The Council must consider all evidence so presented and in accordance with rules of natural justice and the Promotion of Administrative Justice Act, No 53 of 2002 and regulations thereto, deliberate in camera, and come to a decision by majority vote. If there is an equality of votes the chairperson has a casting vote. Any member of Council, who was a member of the committee of first instance, may not vote at the appeal in Council.
- 4.9 The CEO must provide the appellant with the decision of the Council and reasons in writing, within 5 days after the hearing.

5. Repeal of rules

The rules on the Appeals against decisions of ECSA published in Board Notice 149 of 2009 are hereby repealed.

Annexure A**ENGINEERING COUNCIL OF SOUTH AFRICA****TO: THE CHIEF EXECUTIVE OFFICER**

2 Ernest Oppenheimer Avenue, 1st Floor Waterview Corner
Private Bag X691
BRUMA
2026

Date:

Email: legal@ecsa.co.za and siphiwe@ecsa.co.za

Dear Chief Executive Officer

NOTICE OF APPEAL**1. DECISION BEING APPEALED (*tick appropriate box*)****1.1 SECTION 24: REGISTRATION;**

1.1.1 Education Qualification Evaluation

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1.1.2 Professional Registration.....

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1.2 SECTION 33: FINDING OF THE DISCIPLINARY TRIBUNAL**2. DETAILS OF APPELLANT:****3. GROUNDS FOR APPEAL:****4. LIST SUPPORTING DOCUMENTS:****5. SIGNATURE OF APPELLANT:**