

BOARD NOTICE 41 OF 2017

**Code 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 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

1. Objectives

The objectives of this Schedule are to ensure that Registered Persons, in the execution of their engineering work -

- 1.1 apply their knowledge and skill in the interests of the public and the environment;
- 1.2 execute their work with integrity and in accordance with generally accepted norms of professional conduct;
- 1.3 respect the interests of the public and honour the standing of the profession;
- 1.4 strive to improve their professional skills and those of their subordinates;
- 1.5 encourage excellence within the engineering profession; and
- 1.6 do not prejudice public health and safety.

2. Definitions

In this Schedule any expression or word that has been defined in the Act has that meaning, and unless the context otherwise indicates -

- 2.1 **“business undertaking”** means any business enterprise or entity, joint venture, consortium, association or any such organisation or entity;
- 2.2 **“Council”** means Engineering Council of South Africa established by section 2 of the Act;
- 2.3 **“engineering work”** means the process of applying engineering and scientific principles, concepts, contextual and engineering knowledge to the research, planning, design, implementation and management of work in both the natural and built environments;
- 2.4 **“information”**; means engineering documents and data produced or relied upon by the Registered Person in the performance of work that form a material part of the project records, including competent person or similar appointments, design calculation drawings and inspection certificates, whether electronic format or otherwise.
- 2.5 **“Registered Persons”** means persons registered in terms of the Act;
- 2.6 **“the Act”** means the Engineering Profession Act, 2000 (Act No. 46 of 2000); and
- 2.7 **“work”** means any engineering work normally carried out by Registered Persons in the practice of their profession.

3. Rules of Conduct: Ethics

Registered Persons in fulfilling the objectives contemplated in clause 1 above must comply with the following rules:

3.1 Competency

Registered Persons: -

- (a) must discharge their duties to their employers, clients, associates and the public with due care, skill and diligence.
- (b) may only undertake work which their education, training and experience have rendered them competent to perform and is within the category of their registration.
- (c) must, when carrying out work, adhere to norms of the profession.

3.2 Integrity

Registered Persons: -

- (a) must discharge their duties to their employers, clients, associates and the public 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 the norms of the profession;
- (c) must not engage in any act of dishonesty, corruption or bribery;
- (d) must disclose to their employers and clients, or prospective employers or clients, in writing: -
 - (i) any interest, whether financial or otherwise, which they may have in any business undertaking or with any person, and which is related to the work for which they may be or have been employed;
 - (ii) particulars of any royalty or other benefit which accrues or may accrue to them as a result of the work performed for; the client or employer concerned; and
 - (iii) the status of their professional indemnity insurance cover, upon request;
- (e) may not, either directly or indirectly, receive any gratuity, commission or other financial benefit for any article or process used in, or for the purpose of, the work for which they are employed, unless such gratuity, commission or other financial benefit has been disclosed in writing to the employer or client concerned;
- (f) must avoid situations that give rise to a conflict of interest or the potential for such conflict of interest;
- (g) may not misrepresent, or knowingly permit misrepresentation of their own or any other person's academic or professional qualifications or competency, nor exaggerate their degree of responsibility for any work;
- (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) must ensure that any work approved or certified by them, has been reviewed or inspected to the extent necessary to confirm the correctness of the approval or certification;
- (k) 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;

- (l) must notify Council on becoming insolvent where such insolvency is caused by his or her negligence or incompetence in performing engineering work;
- (m) 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.

3.3 Public Interest

Registered Persons: -

- (a) must at all times have due regard for and give priority to the health, safety and interest of the public.
- (b) must when providing professional advice to a client or employer, and such advice is not accepted, inform such client or employer of any consequences which may be detrimental to the health, safety or interests of the public and at the same time inform the Council of their action.

3.4 Environment

Registered Persons must at all times -

- (a) have due regard for, and in their work avoid or minimise, adverse impact on the environment; and
- (b) strive to ensure that in meeting present development needs, the ability of future generations to meet their needs is not compromised,

3.5 Dignity of the Profession

Registered Persons: -

- (a) must order their conduct so as to uphold the dignity, standing and reputation of the profession;
- (b) may not maliciously or falsely, whether in the practice of their profession or otherwise, knowingly injure the professional reputation or business of any other Registered Person or the reputation of the Council;
- (c) may not improperly supplant or attempt to supplant a Registered Person in a particular engagement after such Registered Person has been employed;

- (d) may not advertise their professional services in a misleading or exaggerated manner or in a manner that is harmful to the dignity of the profession;
- (e) may not review the work carried out for a particular client by another Registered Person, except -
 - (i) where the review is carried out for a different client; or
 - (ii) with the prior knowledge of the other Registered Person; or
 - (iii) after receipt of a notification in writing from the client that the engagement of the other Registered Person has been terminated; or
 - (iv) where the review is intended for purposes of dispute resolution or legal proceedings, including proceedings arising from these Rules; or
 - (v) for routine or statutory checks.

4. Administrative

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 employer's or client's behalf without the written authority of the employers or clients;
- (c) may not issue any information prepared by them or by any other person under their direction or control, unless this information bears -
 - (i) the name of the organisation concerned;
 - (ii) the name of the Registered Person concerned or another appropriately qualified and authorised person; and
 - (iii) the date of preparation.
- (d) may, in instances where the signature of a Registered Person is required, use an electronic signature as defined in the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);
- (e) 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.
- (f) must supervise, and take responsibility for, work carried out by their subordinates including persons registered as candidates;
- (g) must ensure that, while engaged as partners, directors, members or employees 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;

- (h) 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 that the Council may consider *prima facie* to be improper conduct;
- (i) must notify Council without delay of any change of his or her physical address;
- (j) 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.

5. Repeal of Rules

The rules published in Board Notice 256 of 2013 are hereby repealed, subject to section 12(2) of the Interpretation Act, 1957 (Act No. 33 of 1957).

6. Short title

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