
BOARD NOTICES • RAADSKENNISGEWINGS

BOARD NOTICE 60 OF 2017**Engineering Profession Act, 2000
(Act 46 of 2000)****Rules in terms of Section 36(1)
Requirements for Recognition as a Voluntary Association**

The Engineering Council of South Africa, has in terms of section 36(1) of the Engineering Profession Act, 2000 (Act 46 of 2000) made the rules, as set out in the Schedule, in relation to the recognition of voluntary associations as contemplated in Sections 14(d) and 25 of the Act.

This Board Notice comes into effect on the day 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) **“association”** for purposes of these rules means an institute, institution, association, society or federation established by engineering practitioners to promote their collective professional and/ or business interests;
 - (ii) **“annual fees”** means the fees determined by the Council in terms of section 12(1)(c) of the Act;
 - (iii) **“built environment councils”** means a council referred to in section 1(iv) of the Council for the Built Environment Act, 2000 (Act No. 43 of 2000);
 - (iv) **“corporate member”** means a member of an association contemplated in Category B which is eligible to vote at any meeting of such association;
 - (v) **“code of professional conduct”** means the code of conduct drawn up by the Council in terms of section 27(1) of the Act;

- (vi) **“Council”** means Engineering Council of South Africa established by section 2 of the Act;
- (vii) **“continuing professional development”** means continuing education and training by registered persons as contemplated by section 13(k) of the Act.
- (viii) **“governing body”** means the highest authority of an association charged with controlling the affairs of an association;
- (ix) **“in good standing”** means that a member of an association who is not regarded by such association as being in default of its constitution or by-laws;
- (x) **“Minister”** means the national Minister responsible for the Public Works Portfolio;
- (xi) **“registered persons”** means persons registered in any of the categories of registration referred to section 18(1) of the Act;
- (xii) **“rules”** means a rule made and in force in terms of the Act which in this case, is the requirements for recognition as a voluntary association.
- (xiii) **“the Act”** means the Engineering Professions Act, 2000 (Act 46 of 2000);
- (xiv) **“voluntary association”** means an association recognised by the Council as a voluntary association in terms of section 25(3) of the Act, and
- (xv) **“voting member”** means a member of an association contemplated in Category A and B, who is entitled to vote in terms of its constitution.

CATEGORIES OF VOLUNTARY ASSOCIATIONS

2. The following categories of *voluntary associations* are hereby established:

Category A

- (1) *Associations* whose membership consists of natural persons who, subject to the applicable provisions of Rule 3, are practising in engineering in any particular discipline or sub-discipline of engineering; or in any particular category of registration contemplated in section 18 of the Act.

Category B

- (2) *Associations* whose membership consists of juristic persons, including sole proprietors (corporate members), who, subject to the applicable provisions of rule 4, are engaged in carrying out work of an engineering nature.

REQUIREMENTS WITH WHICH AN ASSOCIATION MUST COMPLY TO QUALIFY FOR RECOGNITION AS A VOLUNTARY ASSOCIATION

Category A

3. Any *association* wishing to be recognised as a *voluntary association* contemplated in *Category A* referred to in rule 2(1) must comply with the following requirements:
- (1) The *association* must be governed by a formally accepted constitution/bylaws which –
 - (a) is not in conflict with the Constitution of the Republic of South Africa;
 - (b) is not in conflict with the Act or any policies and rules of the *Council*; and
 - (c) does not obligate its members to adhere to a code of conduct, which is in conflict with the *Council's* code of professional conduct, or any applicable code of practice published by the *Council*.
 - (2) The *association* must have among its core missions at least the promotion of the engineering profession.
 - (3) The *association* must be of South African origin and its *governing body* must be independent of direct influence by any foreign body.
 - (4) The *association* must have at least 100 *voting members*, who are *in good standing* with the *association*, the majority of whom must be *registered persons* in good standing with *Council* (registration fees and CPD).
 - (5) Majority of members of its *governing body* must be registered persons in good standing with *Council* (registration fees and CPD).
 - (6) A list of the names and registration numbers of the members of its *governing body* must accompany the application for recognition by *associations*.
 - (7) The *association* must adhere strictly to its constitution, and be able to satisfy the *Council* of such adherence.
 - (8) The *association* must declare, in writing, a commitment to promote registration with *Council* among its *members* and undertake to solicit a commitment by its *members* to register with *Council*.

Category B

4. An *association* wishing to be recognised as a *voluntary association* contemplated in rule 2(2) must comply with the following requirements:
- (1) The *association* must be governed by a formally accepted constitution which –
 - (a) is not in conflict with the Constitution of the Republic of South Africa;
 - (b) is not in conflict with the Act;
 - (c) does not obligate its *corporate members* to adhere to a code of conduct which is in conflict with the principles of the *Council's* code of professional conduct, or to permit conduct by an employee of a *corporate member* which is in conflict with

the *Council's* code of professional conduct or any applicable code of practice published by the *Council*; and

- (d) contains objectives to the effect that –
 - (i) the common interests of its *corporate members* in the pursuit of excellence in an engineering environment are to be promoted, encouraged and protected; and
 - (ii) the technical competence of its *corporate members* and their employees within the particular industry in which the *association* is active, is promoted.
- (2) An *association* must declare, in writing, a commitment to promote registration with *Council* among its *corporate members* and undertake to solicit a commitment by its *corporate members* to promote registration among their employees.
- (3) An *association* must adhere strictly to its constitution, and be able to satisfy the *Council* of such adherence.
- (4) The *association* must have at least *ten corporate members*, who are *in good standing* with the *association*.

EXEMPTIONS

- 5. (1) Notwithstanding the provisions of rules 2 to 4, the *Council* may, on application by an *association* and on good case shown, exempt an *association* from having to comply with any of the requirements prescribed herein if the *Council* is satisfied that such exemption is in the interest of achieving the objectives contemplated in the Act and these rules.
- (2) The *Council* may impose such conditions as it deems appropriate on an *association* that has been exempted in terms of rule 5(1), and rule 8(8) will apply if such *association* fails to comply with any condition so imposed.

APPLICATION FOR RECOGNITION

- 6. (1) Any *association* wishing to be recognised as a *voluntary association* must submit an application, in the format prescribed in Appendix A of these rules, to the *Council* and provide all the information required therein, and such additional information as the *Council* may determine in each particular case.
- (2) All applications by *associations* wishing to be recognised as *voluntary associations* will be considered by *Council*.
- (3) *Council* shall endeavour to process and finalise all applications by *associations* wishing to be recognised as *voluntary associations* within a period not exceeding three (3) months from the date of receipt by *Council* of such applications, PROVIDED THAT an *association* wishing to be recognised as a *voluntary association* has provided all the required information at the time of submitting its application for recognition.
- (4) *Council* reserves the right to, prior to recognising any *association* applying for recognition; conduct an audit or an inspection at the premises of that *association* to verify the information submitted by any *association* in support of its application for recognition in terms of these rules.

RECOGNITION AS A VOLUNTARY ASSOCIATION AND DURATION OF RECOGNITION

7. (1) If, after consideration of an application referred to in rule 6, the *Council* is satisfied that the *association* meets the relevant requirements for recognition as set out in these rules, the *Council* must recognise such *association* as a *voluntary association* in the appropriate category, formally notify such *association* and issue it with a certificate of recognition in terms of section 25(3) of the Act.
- (2) The certificate of recognition is valid for a period of five years from the date of issue, which date is deemed to be the date on which the *Council* resolves to recognise the *voluntary association*.
- (3) The *voluntary association* must display its certificate of recognition in a prominent place at its head office and may display *Council's* logo on its stationery as an indication of its recognition status.
- (4) The *Council* must, within 30 days from the date on which it recognises a *voluntary association*, publish the name of such *voluntary association* on its website, and thereafter make it known in such other manner as it may deem appropriate.
- (5) If, after consideration of an application referred to in rule 6, the *Council* is not satisfied that the *association* meets the relevant requirements for recognition as set out in these rules, the *Council* must formally notify such *association* and give reasons why it does not meet the relevant requirements for recognition as set out in these rules.
- (6) *Council* shall, in notifying the *association* that is found not to meet the relevant requirements for recognition as set out in these rules that its application has not been successful, also notify that *association* of its right to appeal against such a *Council* decision through the avenues provided for in the Act, including lodging an appeal through the Council for the Built Environment.

RENEWAL AND LAPSING OF RECOGNITION

8. (1) The recognition of a *voluntary association* remains in effect for as long as it meets the requirements for recognition in terms of these rules.
- (2) Council reserves the right to, in giving effect to rule 8(1), conduct regular audits and inspections on all recognised *voluntary associations* to ensure that the *voluntary associations* remains compliant to the requirements for recognition in terms of these rules.
- (4) The recognition of a *voluntary association* lapses in terms of section 25(6) (a) of the Act—
- (a) if that *voluntary association* is found to no longer comply with the requirements set out in these rules, after having failed to remedy the efficiencies within the timelines determined by *Council*; or
- (b) at the expiry of the five-year period referred to in rule 7(2).
- (5) Every *voluntary association* must provide *Council*, by no later than 30 months prior to the expiry date contemplated in rule 7(2), with information on its membership profile to enable *Council* to monitor whether the requirements for recognition are still being met.

- (6) Notwithstanding rule 8(4), a *voluntary association* which is required to comply with the relevant ratios specified in rule 3(5), must annually submit the required information by no later than the appropriate deadline specified therein.
- (7) Every *voluntary association* must advise *Council* of any changes to its constitution and/or by-laws, within 60 days of the date on which the changes were approved.
- (8) If at any time during the period of five years referred to in rule 7(2) a *voluntary association* becomes aware that it no longer complies with the requirements, it must notify the *Council* forthwith in writing of such fact and provide the reasons for it.
- (9) Any *voluntary association* that fails to comply with any of the provisions of rule 8 will be regarded by *Council* to be non-compliance with the requirements for recognition with which every *voluntary association* should comply.
- (10) If the *Council* is satisfied that a *voluntary association* has ceased to comply with the requirements specified in these rules, the recognition of such *voluntary association* lapses in terms of section 25(6)(a) of the Act on the date on which the *Council* resolves that the *voluntary association* ceased to comply.

AMENDMENT OF THE REQUIREMENTS FOR RECOGNITION

- 9. If the *Council* at any stage decides to amend these rules, the *Council* must-
 - (a) inform all *voluntary associations* of this decision and provide them with the proposed amendments;
 - (b) call for comment on the amendments from the *voluntary associations*; and
 - (b) prescribe such amendments in terms of section 36 of the Act.
- 10.
 - (1) If an amendment of the requirements so prescribed results in a *voluntary association* ceasing to comply with the requirements, that *voluntary association* must, within twelve months from the date on which the amended requirements have been prescribed, take the necessary steps to comply with the amended requirements, and provide the *Council* with proof that it does comply.
 - (2) The *Council* may at its discretion, and on application by the affected *voluntary association*, extend the period of twelve months by an additional period not exceeding six months, if the *Council* is satisfied that the *voluntary association* in question has taken definite steps to comply with the requirements, but has nevertheless not succeeded in the timeframes allowed.
 - (3) If a *voluntary association* fails or refuses to comply with any of the amended requirements within the period allowed, its recognition as a *voluntary association* lapses on the day when the *Council* resolves that the *voluntary association* ceased to comply with the requirements.

RETURN OF RECOGNITION CERTIFICATE

- 11. A *voluntary association* recognition of which has lapsed must, within 30 days from the date on which it is so directed in writing by the *Council*, return its certificate of recognition.

RIGHTS AND OBLIGATIONS OF COUNCIL AND VOLUNTARY ASSOCIATIONS

12. The *Council* is obliged to consult with the *voluntary associations* as required by all the provisions of the Act that requires *Council* to do so.
13. The *Council* undertakes to –
- (1) subject to *Council's* rules governing the nomination of persons to serve on *Council*: give consideration to persons nominated by *voluntary associations* for purposes of appointment as members of the *Council* and any of its committees, PROVIDED that: this provision may not be construed as usurping the powers of the Minister to appoint Council members; or precluding *Council* from engaging in constructive co-operation with any other *association*, institute, society or interested group or stakeholder in sourcing persons with the necessary expertise in fulfilling its functions under the Act;
 - (2) promote greater awareness among *registered persons* of the advantages of membership of *voluntary associations*. In giving effect to this rule, all *voluntary associations* will be required to invite *Council* at the open sessions of their Annual General Meetings and accord *Council* a slot to present to the Annual General Meeting on the role of *Council*, its relationship with *voluntary associations*, the benefits of being registered with *Council* and the advantages of membership of *voluntary associations*. In addition, *Council* shall be afforded the exhibition space at the Annual General Meetings of all *voluntary associations* and other *voluntary association* activities; and
 - (3) grant, in terms of section 12(2) of the Act, and on application by a *voluntary association*, a discount in the payment of full *registration application fees* payable by *applicants for registration* who are members *in good standing* of a *voluntary association*; and of *annual registration fees* payable by *registered persons* who are members *in good standing* of a *voluntary association*. The extent of the discount in *registration application fees* and *annual registration fees* payable by members of a *voluntary association in good standing* will be determined by *Council*.
14. The *voluntary associations* undertake to-
- (1) support and cooperate with *Council* in all matters pertaining to the execution of its legislative mandate, its vision, its strategy, its performance plans and its transformation agenda;
 - (2) give effect to *Council's* Resolutions in so far as they require implementation by *voluntary associations* in carrying out *Council's* functions or mandate; and
 - (3) acknowledge *Council* as the sole Regulator and representative of the organised engineering profession on all cross-cutting engineering related matters nationally and internationally.
15. Any *voluntary association* that fails to comply with any of the provisions of rule 14 will be regarded by *Council* to be non-compliance with the requirements for recognition with which every *voluntary association* should comply.

Appendix A

ENGINEERING COUNCIL OF SOUTH AFRICA

Voluntary Association Application Form

NEW APPLICATION☐**RENEWAL**☐**Name of Association:****Domicilium** (physical address):**Name of CEO / Executive Director / National Secretary:****Telephone:****Fax:****E-mail:****Website:**

I,

in my capacity as

of the

and on behalf of the

hereby make application for recognition as a Voluntary Association in terms of Section 25(2) of the Engineering Profession Act, 2000 (Act No. 46 of 2000), and specifically for recognition as a

Category

A	<input type="checkbox"/>
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B	<input type="checkbox"/>
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* Voluntary Association.

* Tick (✓) appropriate block.

I enclose the required information in substantiation of the application and confirm that the information, to the best of my knowledge, is accurate and complete.

I confirm that the Association has consistently complied in all respects with its Constitution and Bylaws, since its establishment.

Signed on this

day of

month & year.

Capacity

Date

Information & Supporting Documents:

1. Current Serving President / Chairperson:	
(a) Date of Inauguration	
(b) Date of Termination of Term	

2. Constitution and Bylaws: (Must be attached) (* Tick ✓)	
(a) Constitution	
(b) Bylaws	
(c) Minutes of the Association's most recent Annual General Meeting	

3. Code of Conduct:	Yes	No	(If "Yes", submit) (* Tick ✓)
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4. Membership Profile: (attach and reflect ECSA registration number)	
<u>Category A</u>	
(a) Number of Voting Members	
(b) Number of Persons Registered with ECSA	
<u>Category B</u>	
(a) Number of Corporate Members	

5. Council (Governing Body) Profile: (attach and reflect ECSA registration number)	
<u>Category A</u>	
(a) Number of Members	
(b) Number of Persons Registered with ECSA	
<u>Category B</u>	
(a) Number of Members	
(b) Number of Persons Registered with ECSA	

6. Relationship with Foreign Bodies and Proof of Autonomy:

(Describe relationship and provide confirmation of autonomy from direct foreign influence)

7. Statements of Commitment:

An association must declare, in writing, a commitment to promote registration with ECSA among its members.

Declaration: