

**BOARD NOTICE 204 OF 2012****ENGINEERING COUNCIL OF SOUTH AFRICA****Draft Rules: Rules of Conduct for Registered Persons: Engineering Profession Act, 2000 (Act no. 46 of 2000)**

ECSA herewith publishes the draft Rules in terms of Section 36(2) of the Engineering Profession Act 46 of 2000, for public comment.

The Draft Rules are available on ECSA's website [www.ecsa.co.za](http://www.ecsa.co.za).

The closing date for submission of comments to ECSA by facsimile to **0865133006** or email address **comments@ecsa.co.za** is no later than **31 January 2013**.

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

**DRAFT RULES**

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 and in accordance with generally accepted norms of professional conduct;
  - (3) respect the interests of their fellow beings 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 -
  - (1) **“business undertaking”** means any business enterprise or entity, joint venture, consortium, association or any such organisation or entity;
  - (2) **“Council”** means Engineering Council of South Africa established by section 2 of the Act;

- (3) **"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;
- (4) **"Registered Persons"** means persons registered in terms of the Act;
- (5) **"the Act"** means the Engineering Profession Act, 2000 (Act No. 46 of 2000); and
- (6) **"work"** means any engineering work normally carried out by Registered Persons in the practise 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, clients, associates and the public in a professional manner with due care, skill 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 carrying out work, engage in and adhere to acceptable practices.

#### Integrity

**3(2) 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 acceptable professional standards;
- (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; and

- (ii) particulars of any royalty or other benefit which accrues or may accrue to them as a result of the work; with the client or employer concerned;
  - (iii) the status of their professional indemnity insurance cover upon request;
- (e) may not, either directly or indirectly, receive any gratuity, or commission or other financial benefit for 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 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 knowingly misrepresent, or permit misrepresentation of their own or any other person's academic or professional qualifications or competency, nor knowingly 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) 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 they become insolvent.
  - (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 have due regard and priority to public health, safety and interest;
- (b) must when providing professional advice to a client or employer, and if such advice is not accepted, inform such client or employer of any consequences which may be detrimental to the public health, safety or interests and at the same time inform the Council of their action;
- (c) must without delay notify Council if they have been declared medically unfit by a registered medical practitioner to practise as a Registered Person.

## 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 supplant or attempt to supplant a Registered Person in a particular engagement after such Registered Person has been employed;
- (e) may not advertise their professional services in a self-laudatory manner or in a manner that is harmful to the dignity of the profession;
- (f) may not review the work of another Registered Person for a particular client, except -
  - (i) with the prior knowledge of the other Registered Person, who must be provided with a copy 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.

## Administrative

### 4. 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 in respect of work 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 always ensure adequate supervision of, and take responsibility for, work carried out by their subordinates;
- (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 which 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.

## Repeal of Rules

5. The rules published in Board Notice 15 of 2006 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.