

## The Insurance Institute of South Africa

# CONSTITUTION

**THIS NEW CONSTITUTION OF THE IISA WAS APPROVED AT THE  
ANNUAL GENERAL MEETING OF MEMBERS  
ON THE 30<sup>TH</sup> AUGUST 2012**



# The Insurance Institute of South Africa

## CONSTITUTION

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# CONSTITUTION

## Of

# THE INSURANCE INSTITUTE OF SOUTH AFRICA

## **1 CONSTITUTION, NAME AND CORPORATE PERSONALITY**

- 1.1 This is the Constitution of the body known as "The Insurance Institute of South Africa" (hereinafter referred to as "The Institute").
- 1.2 The Constitution of The Institute shall be altered only by a resolution of which at least twenty one calendar day's notice shall have been given and which shall have been passed by two thirds of the members present and entitled to vote at an Annual General Meeting or Special General Meeting.
- 1.3 The Institute is a voluntary Association having a corporate identity separate from that of its members and is entitled to own property, whether movable or immovable or otherwise, and is entitled to sue or to be sued in its own name and, notwithstanding any change in the composition of its Members from time to time, shall have perpetual succession. All property held by The Institute shall be its exclusive property, and no Member shall have any claim thereto, nor shall any Member make any profit out of his membership, except in the case of remuneration for services rendered to The Institute.
- 1.4 The Institute shall not carry on any trade or business or engage in any transaction with a view to pecuniary gain or profit of individual members.

## **2 DEFINITIONS AND ABBREVIATIONS USED**

For the purpose of this Constitution, the following words and expressions shall have the following meanings unless the subject or context indicates otherwise.

**'Associated Institute'** means an insurance institute established outside the Republic of South Africa but in Southern Africa and classified as such by the Board of Directors of The Institute; while

**'Affiliated Institute'** means an institute established beyond Southern Africa; and

**'Board of Directors'** means the Board of Directors for the time being of The Institute as constituted pursuant to the provisions of the Constitution and the Regulations;

**'Code of Conduct'** means the body of rules setting out the manner of application, implementation and guide to the conduct of honesty, integrity, and exercise of fiduciary duty in respect of the mode of behaviour in terms of the provisions of the Constitution and Regulations of The Institute, the adherence to directives of legal statutory bodies, professionalism and behaviour generally.

**'Chief Executive'** means the chief executive officer (however described by title) for the time being of The Institute and includes any person for the time being duly authorised to perform any of the duties of the Chief Executive;

**'Director'** means a duly appointed Director of The Institute for the time being and can be either an Executive Director or a Non-Executive Director;

**'Discipline in the insurance industry'** means an accepted and distinct branch of insurance with clearly defined tasks or types of insurance;

**'Executive Director'** means a duly appointed Director of The Institute for the time being, who is in the full-time employment of The Institute;

**'Fellow', 'Associate', and 'Licentiate'** means a person accorded such formal recognition and so elected by The Institute and referred to as a Professional Member;

**'Financial Year'** means the financial year of The Institute and shall run from 01 January until 31 December of each year;

**'General Meeting'** means and includes the Annual General Meeting and Special General Meetings of The Institute;

**'Honorary Member'** means a member upon whom membership of The Institute has been conferred in an honorary capacity - *Honoris Causa* - by The Institute;

**'In writing'** means written, printed, typed, electronically produced or produced by any other substitute for writing or partly one and partly another;

**'Members'** means members of The Institute; - Professional, General Member or Honorary Life Members

**'General Member;** (Level 1, 2 and 3) means members of the Institute who shall have such rights, privilege and obligations as the Constitution and Regulations shall direct.

**'Non-Executive Director'** means a duly appointed Director of The Institute for the time being, who is not in the full-time employment of The Institute;

**'President's Committee'** means the President's Committee for the time being of The Institute as constituted pursuant to the provisions of the Constitution;

**'Regulations'** means the Regulations contained in the Schedule to this Constitution and other regulations of The Institute determined by the appropriate constituent organ, as from time to time are applicable and in force in The Institute regulation structure and are ratified by the Board of Directors.

**'Resolution'** means a resolution submitted to a General Meeting which is not a special resolution and which is required to be passed by a simple majority only of the Members present and voting thereon or, in the case of a poll, of the Members voting in the poll;

**'Special Business'** means business to be conducted at an Annual General Meeting, notice of which has been given in writing to the Chief Executive pursuant to the provisions;

**'Special Resolution'** means a resolution submitted to a General Meeting convened with notice of such resolution, which is required to be passed by a vote of not less than two thirds of the Members present and voting thereon or, in the case of a poll, by not less than two thirds of the Members voting on the poll, or by such other number of votes (being greater than a simple majority) as may be specified in the Constitution;

**'Year-end'** means the end of the financial year of The Institute and shall be 31 December of each year.

### **3 INTERPRETATIONS**

3.1 The headings to the clauses or paragraphs of this Constitution are for descriptive purposes only and shall not be used in the interpretation hereof;

3.2 Unless the context indicates a contrasting intention;

3.2.1 the singular shall include the plural and vice versa;

3.2.2 the masculine includes the feminine and vice versa

(In this constitution the masculine form of words has been used. This has been done purely for convenience and carries no implications or connection with regard to gender whatsoever).

## **4 HEADQUARTERS**

The Headquarters of The Institute shall be in Gauteng, Republic of South Africa, and shall remain there until the Board of Directors shall decide that the Headquarters shall be moved.

## **5 AREA OF JURISDICTION OF THE INSTITUTE**

The geographical area of jurisdiction of The Institute shall be the Republic of South Africa, together with such other territories, countries, including Republics, Kingdoms, states, provinces or similar recognised or deemed areas of sovereignty as the Board of Directors may agree from time to time.

## **6 OBJECTS OF THE INSTITUTE**

The objects of The Institute are: -

- 6.1 To provide and maintain a central organisation for the promotion of efficiency, progress, knowledge, educational and skills development, welfare and the general good and development among persons engaged or employed in the insurance industry, whether Members or not and to set and communicate standards regarding professionalism and to achieve an image and reputation of excellence;
- 6.2 To confer the status of Institute membership, Fellow, Associate, Licentiate or General upon approved persons who comply with the personal standards and academic qualifications and skills determined by the Institute and to represent, further and protect the interests of such Members carrying on business in the insurance industry and to deal with all matters as may affect the common interests of Members;
- 6.3 To promote, encourage, support or oppose any legislation or statutory or other measure affecting Members and to represent to any government, minister or public authority the necessity or otherwise for the enactment or amendment of legislation or policy;
- 6.4 To encourage, promote, aid and effect the speedy and effective settlement of disputes between Members by enquiry, conciliation, arbitration or facilitation or any other lawful manner as provided for in legislation;
- 6.5 To co-operate or affiliate with similar associations with similar objectives and to affiliate to, associate or merge with such other Insurance Institutes or other bodies as may in the opinion of the Board of Directors be deemed beneficial to the interests of The Institute and its Members;
- 6.6 To purchase, rent, lease, hold and dispose of any land, building or other property, movable or immovable, for the advancement of the objects of The Institute;
- 6.7 To borrow or raise money in such manner as The Institute shall think fit, and in particular by overdraft from bankers, and to secure the repayment of any money borrowed, raised or owing with interest thereon, by mortgage, charge or lien upon the whole or any part of The Institute's property or assets, whether present or future, and also by a similar mortgage charge or lieu to serve and guarantee the performance by The Institute of any obligation or liability The Institute may undertake;
- 6.8 To encourage, promote and assist the study of any subject material or skills development relating to any branch of insurance;
- 6.9 To advise on academic standards, qualifications and skills development of members in the insurance industry;
- 6.10 To publish journals and any other matter or information deemed desirable by the President's Committee of The Institute;
- 6.11 To form a library for the use of Members and others;
- 6.12 To collect and form a body of expert opinion on the law and practice relating to all things connected with insurance;

- 6.13 To provide information and advice regarding employment in insurance for Members and others;
- 6.14 To offer money or other prizes and awards on the results of academic achievement or research in any subject bearing on insurance;
- 6.15 To exercise control and supervision over the professional standards, ethics and conduct of the Members and to impose sanctions and penalties for breaches of standards, ethics and for professional misconduct, and to revoke the status of membership, Fellow, Associate, Licentiate or General Member for such breaches;
- 6.16 To promote personal and constructive communication and collaboration between Members of The Institute;
- 6.17 To seek to enhance the professional status of Fellows, Associates, Licentiates and Members and to promote the interests, welfare and advancement of the Members in general;
- 6.18 To do all such other lawful things as are incidental or conducive to the attainment of the above objects or any of them;
- 6.19 The income and property of The Institute whencesoever derived shall be applied solely towards the promotion and attainment of the objects of The Institute and The Institute shall not engage in any transaction with a view to the pecuniary gain of profit of individual members. No Member shall make a profit out of its membership except in the case of and as a salaried officer of The Institute.

## **7 POWERS OF THE INSTITUTE TO CARRY OUT ITS OBJECTS**

The Institute shall have all such powers and authorities as shall be necessary or desirable or conducive to achieving any and all of the objects of The Institute. These powers and authorities shall be exercised by the Board of Directors and/or by any duly constituted sub-committee or the President's Committee in accordance with and subject to the provisions of this Constitution in compliance with the conditions determined by Statutory and Regulatory requirements. Without in any way limiting the generality of the foregoing, the powers and authorities of The Institute shall include those set out in the sub-clauses below:

- 7.1 To acquire by purchase, exchange, hire, sub-lease, donation or otherwise movable and/or immovable property of any kind;
- 7.2 To sell, let, mortgage, dispose of, give in exchange, turn to account or otherwise deal with all or any part of the property or rights of The Institute;
- 7.3 To enter into contracts of any kinds necessary to carry out, give effect to or secure the objects of The Institute;
- 7.4 From time to time, in accordance with sound business and financial principles, to invest the funds of The Institute in such property or assets or other security as may be deemed advisable from time to time in compliance with the conditions determined by Statutory and Regulatory requirements;
- 7.5 To appoint, elect, employ, suspend or dismiss and remunerate employees, professional assistants and experts with such functions, tenure and terms of office as may be prescribed by or pursuant to the Constitution or the Regulations;
- 7.6 To establish and contribute to a pension, annuity, medical and/or other fund for the benefit of its employees and/or the dependants of such employees in accordance with the rules of such fund;
- 7.7 To arrange pension and medical aid schemes for the benefit of and to grant pensions, allowances, gratuities and bonuses to employees or ex-employees of The Institute, or the dependants of such persons, and to support or subscribe or make donations to any charities or other institutions, clubs, societies and funds;
- 7.8 To regulate relations between its Members, and between its Members, the Institute and the Industry and to enter into any agreement or arrangement leading to the provision of services or goods on beneficial terms to Members or their families;

- 7.9 To invite the patronage of any person or persons as it may consider advisable and to elect Honorary Members;
- 7.10 To insure against losses, damage, risk and liability of all kinds;
- 7.11 To draw, make, accept, endorse, execute, negotiate and issue cheques, promissory notes, bills of exchange, warrants and other negotiable or transferable instruments;
- 7.12 To institute, conduct, defend, compound or abandon any legal proceedings by and against The Institute or its officers or otherwise concerning the affairs of The Institute, or action of its Members, and also compound and allow time for payment or satisfaction of any debts due or any claims or demands made by or against The Institute;
- 7.13 To raise money whether by subscription or levy from its Members or from any other source, and recover by legal process monies due by members or ex-members, associations or organizations;
- 7.14 To spend or otherwise apply monies to the advancement, development and promotion of The Institute and its members, professionally, intellectually or socially through Seminars, Conferences, Educational Forums or any other appropriate means determined by the Institute;
- 7.15 To contribute or subscribe to bodies with aims similar to the aims of The Institute;
- 7.16 To borrow and guarantee or otherwise secure the repayment of money in such manner and in such terms as it may think fit;
- 7.17 To make and pass rules, bye-laws, or regulations and to add to, repeal or alter such rules, bye-laws or regulations, with or without penalties for the carrying out, administration and implementation of the Constitution, and the attainment of the objects of The Institute;
- 7.18 To impose disciplinary measures on its Members or former Members arising out of or connected with any contravention or breach of the provisions of this Constitution or any rule, bye-law or regulation passed by the Board of Directors or of the Code of Conduct and recover, by legal action or otherwise penalties or compulsory contributions or damages from its Members or former Members. Without in any way limiting the generality of the foregoing, The Institute shall have the power to suspend or ban any Member;
- 7.19 To take all such action as may be required or necessary to enforce fully and effectively all obligations of whatsoever nature and howsoever arising which may be owed to The Institute by its Members, former Members or any other persons or body;
- 7.20 To affiliate to, associate or merge with such other insurance institutes or other bodies as may in the opinion of the Board of Directors be deemed beneficial to the interests of The Institute.

## **8 MEMBERSHIP AND RIGHTS OF MEMBERSHIP**

- 8.1 The Institute shall consist of such classes of membership, which the Institute shall have the exclusive right to confer, as provided in this Constitution and in the Regulations, and which classes shall bear such rights, privileges and obligations as the Constitution and Regulations shall direct;
- 8.2 Classes of Membership
  - 8.2.1 Professional members - Fellows / Associates / Licentiates;
  - 8.2.2 General Members (level 1, 2 and 3);
  - 8.2.3 Honorary Life members - The Institute may, upon the recommendation of the President's Committee, elect the following persons as Honorary Life members of The Institute:
    - 8.2.3.1 All Past Presidents of The Institute;
    - 8.2.3.2 Professional members to be elected in recognition of meritorious service rendered to The Institute over many years and having a sound knowledge of the affairs of The Institute.

### 8.3 Conditions of Membership

- 8.3.1 Members shall be such persons wholly or mainly engaged or employed in work related to or connected with insurance, or being retired from active or full time employment, but at the time of retirement, or for a substantial part of their working life time, were wholly or mainly engaged or employed in work connected with insurance, and complying with the requirements for membership in terms of par 8.1 and 8.2 and the provisions and requirements as determined by the Professional Standards Committee;
- 8.3.2 All elections and admissions of new Professional Members shall be by the Professional Standards Committee or duly mandated IISA Management and every applicant for election or admission to such class or degree of membership shall satisfy the Professional Standards Committee of his having fulfilled the conditions, academic and other, specified by the Constitution and the Regulations in such a manner as the Professional Standards Committee shall require.

### 8.4 Rights of Members

- 8.4.1 Professional Members (Fellows, Associates and Licentiates) of The Institute shall, subject to any restrictions which may be imposed by the Constitution or the Regulations, be entitled to be present and vote at all General Meetings of The Institute and to take part in the discussion of business, and to such other rights as may be conferred upon them by the Constitution, or the regulations;
- 8.4.1.1 General Members (Level 1, 2 and 3) shall have the right to attend all General Meetings but shall have no voting rights;
- 8.4.1.2 Honorary Life Members shall have the right to attend all General Meetings, but shall have no voting rights, other than those which they may already have or may acquire in their respective capacities as Professional Members.
- 8.4.2 If any Professional or General Member
- 8.4.2.1 on the expiration of one month's notice in writing of resignation of any member;
- 8.4.2.2 is judicially declared insolvent or enters into any compromise with his creditors generally, or
- 8.4.2.3 is sentenced to any period of imprisonment without the option of a fine;
- 8.4.2.4 becomes incapable by reason of mental disorder or unsound mind;
- 8.4.2.5 or is deemed by the Professional Standards Committee, in terms of a ruling by the Disciplinary and / or Appeals Committee to be unfit in consequence of unacceptable behaviour or acts in breach of The Institute's Code of Conduct or the contravention or breach of the provisions of this Constitution, any rule, by-law or regulation of the Institute, or methods or terms of admission, breaches of professional practice or the upholding of professional standards and ethics generally, including non compliance with and breaches of the provisions of legislation, regulations, requirements and directives of legal regulatory bodies and authorities, to continue to serve as a member;
- 8.4.2.6 Disqualification by a court of Law or Legal Statutory Authority to serve as a Director or in any other official fiduciary capacity, the Professional Standards Committee may upon passing a special resolution at a meeting of such Committee specially convened for the purpose, remove such Member's name from the records of Members, and to revoke the designation of Fellow, Associate, Licentiate or General Member. The Professional Standards Committee may refer any such matter to a committee to report to the Professional Standards Committee and make recommendations where appropriate;
- 8.4.4 Any member so resigning or being removed from the records shall continue to be liable for any monies due and unpaid by him to The Institute at the effective date of such resignation or removal.

### 8.5 Registers of Members

- 8.5.1 A register of the Honorary Members shall be kept by The Institute. Such Register shall



contain such particulars as the President's Committee may determine;

- 8.5.2 A register of Professional and General Members shall be kept by The Institute. Such Register shall contain such particulars as the Professional Standards Committee may determine;
- 8.5.3 A list of Fellows, Associates, Licentiates and Members (level I, II and III) shall be published each year.

## 8.6 Subscription and Fees

- 8.6.1 All members shall subscribe to The Institute in accordance with the amount calculated and on the basis decided by the President's Committee;
- 8.6.2 Such subscriptions shall be deemed to be due and payable on the first day of The Institute Financial Year unless the President's Committee determines otherwise;
- 8.6.3 Subject otherwise to the provisions of the Regulations, all subscriptions and fees payable by Senior Members shall be fixed by the President's Committee and the President's Committee shall have the power, in the cases of ill-health, misfortune, advanced age or on other grounds which it shall deem sufficient, to refund all or any part of the subscription or fees, or any arrears thereof, due from any Member. The President's Committee may also fix rates at which any subscriptions or fees may be compounded;
- 8.6.4 All subscriptions for Professional and General Members shall be for a period of twelve months and shall be due and payable on a date determined by the President's Committee from time to time. New Professional and General Members elected after such a date shall pay a proportionate amount of such subscriptions for the year of election;
- 8.6.5 Any Professional or General Member who has failed to pay his subscription within six months of its falling due shall be excluded from membership and his name removed from the records, unless the President's Committee permits his name to remain in the records. Such afore said Member shall nevertheless remain liable to The Institute for the amount due unless the President's Committee directs otherwise.

## 9 ANNUAL GENERAL MEETING

- 9.1 In every year a General Meeting of The Institute shall be held at such time and place as may be appointed by the President's Committee for the time being, not being later than ten months after the close of the financial year. Such meeting shall be and is herein called the Annual General Meeting;
- 9.2 The Ordinary business of an Annual General Meeting shall be:
  - 9.2.1 to receive and consider the Annual Report, Audited Financial Statements, and the Report of the Auditors;
  - 9.2.2 to receive and consider the reports of any Committees appointed with instructions to report to the Annual General Meeting;
  - 9.2.3 to elect the Board of Directors in terms of Article 11.2 and 11.2 for the ensuing year;
  - 9.2.4 to appoint Auditors;
- 9.3 All other business transacted at the Annual General Meeting shall be deemed to be Special Business;
- 9.4 Notice of Annual General Meeting and Special Meetings
  - 9.4.1 Not less than twenty one calendar days notice of the Annual General Meeting and twenty one calendar days' notice of all Special Meetings shall be given to members and the members of the Board of Directors and President's Committee, specifying the date, hour and place of the meeting, and in the case of Special Business, the general nature of such business;
  - 9.4.2 Any notice shall be served by The Institute, upon any Professional or General Member by sending it in writing, delivered, to the Member's recorded address in South Africa;

- 9.4.3 Any notice sent in writing shall be deemed to have been served at the expiration of ninety-six hours after the time of sending and in proving such service it shall be sufficient to prove that the notice was properly addressed and duly sent;
- 9.4.4 The accidental omission to give notice to a specific body or person shall not invalidate the proceedings at any meeting of which notice ought to have been given, unless it is shown that such omission was as a result of negligence or was deliberate;
- 9.4.5 A Professional Member wishing to bring before the Annual General Meeting any Special Business shall give notice thereof in writing to the Chief Executive at least thirty days in advance, and if so given notice thereof shall be included in the notice convening the Annual General Meeting. Save as aforesaid, no Special Business shall be considered at the Annual General Meeting unless it be deemed a matter of extreme urgency by a majority of the Members assembled or be expressly authorised by the Constitution or the Regulations.

## 9.5 Quorum at General Meetings

At every General Meeting ten (10) persons, being Professional Members in terms of Article 8.2 shall form a quorum. If a quorum be not present within thirty minutes of the time appointed for the Meeting, the Meeting, if convened upon requisition as aforesaid, shall be dissolved. In any other case it shall stand adjourned to the same day in the second succeeding week at the same time and place, and at such adjourned Meeting the Professional Members present shall form a quorum.

## 9.6 Chairmen at General Meetings

At every General Meeting the chair shall be taken by the President or, in his absence, by the Deputy-President, whom failing, a Chairman shall be elected from among the Board of Directors present or, in the absence of all of them, from among the Members present.

## 9.7 Voting at General Meetings

### 9.7.1 Voting at General Meetings will be as follows:

- 9.7.1.1 At every General Meeting each Professional Member including Honorary Members in terms of Articles 8.2.1, and 8.2.3 shall have one vote;
- 9.7.1.2 Voting shall in the first instance be on a show of hands and in the event of equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote;
- 9.7.1.3 A poll can be demanded by a voting Member or his proxy, having been duly appointed in terms of Article 11.3, immediately after the declaration of the result of voting on a show of hands;
- 9.7.1.4 On a poll, Members entitled to vote in accordance with sub-sub-Article 1.1 of this Article shall have the same number of votes as on a show of hands. The Chairman shall also have a casting vote, as provided in sub-sub-Article 1.2 of this Article. The Chairman shall regulate the procedure to be adopted for the poll;
- 9.7.1.5 Except as otherwise provided, a simple majority of the votes cast shall be necessary to carry a resolution at any General Meetings of The Institute and the total of the votes cast must be at least equal to the number necessary to form a quorum at that particular Meeting.

9.7.2 A Member shall be entitled to appoint another Member as his proxy to attend and vote for him at all General Meetings. No person may be appointed as a proxy for more than one person who is a Member in terms of Article 8.2.2 at the same time and no person who is an employee of the Institute shall be appointed a proxy;

9.7.3 No person shall be entitled to vote as proxy unless notice of his appointment has been lodged with the returning officer of The Institute, not less than twenty-four (24) hours before the time appointed for the holding of the Meeting.

## 9.8 Adjournment of Meetings

The Chairman of any General or Special Meeting may, with the consent of the Meeting, adjourn the Meeting from time to time and from place to place, but no business shall be transacted at any adjourned Meeting other than the business left unfinished at the Meeting from which the adjournment

took place. No notice need be given of an adjourned Meeting unless it be so directed in the resolution for adjournment.

#### 9.9 Books, Certificates and Forms

Minutes shall be kept in proper books of all resolutions and proceedings of General and Special Meetings of The Institute, Meetings of the Board of Directors and President's Committee and of Meetings of Committees; and every minute signed by the Chairman of the Meeting to which it relates, or by the Chairman of the subsequent Meeting, shall be sufficient evidence of the facts therein stated.

#### 9.10 Honorary Treasurer

It shall be the duty of the Honorary Treasurer to keep, or cause to be kept, a proper account of the receipts and expenditure of The Institute, and of all the matters in respect of which such receipts and expenditure take place, and of the property, assets and liabilities of The Institute, and, shall produce up-to-date accounting records, when required by the President's Committee.

### **10 SPECIAL GENERAL MEETINGS**

#### 10.1 The Board of Directors

10.1.1 may, whenever it thinks fit, convene a Special General Meeting;

10.1.2 shall convene a Special General Meeting within twenty-one [21] calendar days from the receipt by the Chief Executive of a request in writing made by a total of not less than ten Members;

10.2 All business transacted at a Special Meeting shall be deemed to be Special Business.

### **11 APPOINTMENT OF DIRECTORS, PRESIDENT, DEPUTY PRESIDENT, HONORARY TREASURER, FORMATION OF A BOARD OF DIRECTORS, MEETINGS OF THE BOARD OF DIRECTORS AND REMOVAL OF DIRECTORS**

11.1 A maximum of fifteen (15) persons, each duly nominated by a Professional Member and accepting such nomination, and such nominations being delivered to the Chief Executive of The Institute, shall be eligible for appointment as Directors of The Institute by the members of the Board by ballot of the Board at a Board Meeting, subject to them being able and prepared to comply with the appropriate legislation and the Institute's requirements for such office;

11.2 Such Directors shall at all times act in the best interests of The Institute and shall declare their interests in other concerns and businesses in accordance with the applicable regulations in terms of the referred legislation and must recuse themselves from any discussions or decisions regarding business agreements or relations of The Institute with such concerns or businesses and shall generally ensure that in all matters relating to their office as directors there shall be no conflict of interest;

11.3 Subject to compliance with sub-Article 11.1 the following persons shall be Directors of The Institute:

11.3.1 as Executive Directors:

a minimum of five (5) directors being: the President, the Deputy President, the immediate past President, the Honorary Treasurer from those appointed in terms of Article 11.1 of The Constitution, and the Chief Executive of The Institute;

11.3.2 as Non-Executive Director; at least two (2) directors appointed in terms of Sub-Article 11.1 of the Constitution;

11.3.3 from amongst those directors, appointed in terms of 11.1, 11.3.1 and 11.3.2, there shall be nominated and elected by such directors, a President, a Deputy President and an Honorary Treasurer, upon proposal by the aforementioned directors and acceptance by the respective nominee. A ballot shall be conducted in respect of each Office if more than one nominee be nominated for one or more of such offices;

11.3.4 the President, Deputy President and Honorary Treasurer, elected to such Office in terms of 11.3.3 for a maximum period of three (3) years, shall remain in such Office provided that

they retain their respective elected positions as an elected director of The Institute.

**provided that** where any of the persons referred to in 11.3.1 and 11.3.2 above are ineligible to be appointed as directors of The Institute in accordance with the appropriate and applicable regulations and legislation from time to time, or is unable to serve in that capacity for whatever reason, or in the case of the Past President is not available for such duties during the year following his term of office as President, the Board of Directors may elect another member of The Institute to be appointed as a Director. Such election will only cover the term from the date of such election until the next Annual General Meeting. Similarly, in the event of the Chief Executive of The Institute vacating his office, the Board of Directors shall appoint the new Chief Executive as an Executive Director with immediate effect, unless no such appointment has been made yet, in which case the Board of Directors shall appoint an interim Executive Director to serve until such time as a permanent appointment is made or ratified at a General Meeting.

- 11.4 The Directors appointed in accordance with sub-Article 11.1 and 11.3 shall constitute the Board of Directors of The Institute in terms of the appropriate and applicable legislation and provisions of the Constitution and shall comply with the necessary requirements of such legislation and Constitutional provisions, and shall apply the utmost diligence in the execution of their respective fiduciary duty towards The Institute and its members;
- 11.5 The Board of Directors shall meet as a Board at least three times in any one year and shall maintain such minutes and records of such meetings as may be required or appropriate in terms of the applicable legislation, regulations and other governance requirements and shall confirm new regulations or amendments to existing regulations of the Institute;
- 11.6 The maximum term of office for a director shall be three (3) years, unless disqualified by the provisions of 8.4.3, after which such director may make himself available for re-election;
- 11.7 Any three (3) members of the Board shall constitute a quorum at meetings of the Board of Directors;
- 11.8 Termination of Membership of the Board

The Institute may, notwithstanding anything in its Constitution or Regulations or in any agreement between it and any director by resolution, remove a director before the expiration of his period of office.

- 11.8.1 The office of a Member of the Board shall be vacated:
  - (i) on the expiration of one month's notice, in writing, of his resignation;
  - (ii) if he is declared legally insolvent and his estate sequestrated, or suspends payment of his debts or compounds with or makes an assignment of his property for the benefit of his creditors or is sentenced to any period of imprisonment without the option of a fine;
  - (iii) if he is declared mentally insane or becomes of unsound mind;
  - (iv) if he is guilty of committing a breach of duty or breach of trust in respect of his fiduciary duty to the Institute or acts in breach of the Institute's Code of Conduct;
  - (v) if he is or becomes disqualified in terms of any directive or regulatory requirement of any recognised legal authority.

11.9 Removal of directors and procedures in regard thereto

- (1) The Institute may, notwithstanding anything in its Constitution or Regulations, or in any agreement between it and any director by resolution, remove a director before the expiration of his period of office.
- (2) Special notice shall be lodged with The Institute of any proposed resolution to remove a director under this section or to appoint any person in the stead of a director so removed at the meeting at which he is removed, and, on receipt of notice of such a proposed resolution, the Institute shall forthwith deliver a copy thereof to the director concerned who shall, whether or not he is a member of the Institute, be entitled to be heard on the proposed resolution at the meeting.
- (3) Where notice is given of a proposed resolution to remove a director under this section, and the director concerned makes representations with respect thereto not exceeding a reasonable

length in writing to the Institute and requests their notification to members of the Institute, the Institute shall, unless the representations are received by it too late for it to do so-

- (a) in any notice of the resolution given to members of the Institute, state that such representations have been made; and
  - (b) send a copy of the representations to every member of the Institute to whom notice of the meeting is sent, whether such notice is sent before or after receipt of the representations by the Institute.
- (4) If a copy of such representations is not sent as aforesaid because it was received too late or because of the Institute's default, the director concerned may (without prejudice to his right to be heard orally) require that the representations be read at the meeting.
  - (5) No copy of such representations shall be sent out and the representations need not be read out at any meeting if, on the application of the Institute or of any other person who claims to be aggrieved, the Court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter.
  - (6) The Court may order the Institute's or the said other person's costs on an application under subsection (5) to be paid in whole or in part by the director concerned, notwithstanding that he is not a party to the application.
  - (7) Nothing in this section shall be construed as depriving a person removed thereunder of compensation or damages which may be payable to him in respect of the termination of his appointment as director or of any appointment terminating with that of director or as derogating from any power to remove a director which may exist apart from this section.

## **12 PRESIDENT'S COMMITTEE**

- 12.1 The President's Committee shall be composed of a maximum of seven members appointed from the Board of Directors including;
  - 12.1.1 The President
  - 12.1.2 The Deputy President
  - 12.1.3 The Past President
  - 12.1.4 The Honorary Treasurer
  - 12.1.5 The Chief Executive of the Institute
- 12.2 Of the President's Committee any three (3) of the members shall constitute a quorum.
  - 12.2.1 The President's Committee may co-opt a maximum of four (4) staff of The Institute to serve on that committee for a determined and stipulated period, provided that no such co-opted member shall have the right to vote on any matter before the Committee;
- 12.3 The President's Committee shall implement the policy of The Institute as decided by the Board of Directors and deal with all matters relating to the general administration of The Institute. The Committee shall however at no stage have greater authority than those delegated to it by the Board of Directors of The Institute and in all matters of conflict, the ruling of the Board of Directors of The Institute shall prevail;
- 12.4 The Chief Executive of The Institute shall perform such duties as the Board of Directors and the President's Committee shall from time to time direct;
- 12.5 In particular and without prejudice to the foregoing, the President's Committee shall:
  - 12.5.1 appoint, upon such terms and conditions as to it may seem fit, and dismiss the paid employees of The Institute, or authorise the Executive Staff Members of The Institute to do so; recommend for Board of Director's consideration, the appointment and dismissal of the Executive Staff Members of The Institute, including the Chief Executive;
  - 12.5.2 suggest the borrowing of money and payment of the interest thereon;
  - 12.5.3 consider the payment or reimbursement of the reasonable travelling and out-of-pocket expenses of the members of the President's Committee incurred in attending General Meetings or any Committee or of other persons attending meetings of Committees of The Institute to which they have been appointed or co-opted and to repay any Member

expenses actually incurred by him in the business or on behalf of The Institute, always provided that it must be considered as certain that if such expenses were not paid by The Institute the Members involved could not attend the meeting concerned and this would, in the opinion of the President's Committee prevent such meeting from being able to fulfil its purpose;

- 12.5.4 subject to the provisions of the Constitution and the Regulations recommend the time and place of the Annual Conference and Annual General Meeting;
- 12.5.5 suggest the convening of a Special General Meeting;
- 12.5.6 make recommendations for the Board of Director's consideration and confirmation at the Annual General Meeting the names of Members nominated for election to the President's Committee as honorary members and other officers;
- 12.5.7 ensure the preparation of budgets and the Annual Report and Accounts for submission to the Board of Directors;
- 12.5.8 subject to the provisions of the Constitution and the Regulations, enter into such contracts and to do all such acts and things as it may deem expedient for the purposes of efficient and effective administration of The Institute in compliance with the policy and strategy determined by the Board of Directors;
- 12.5.9 make recommendations for the Board of Director's consideration concerning the subscriptions payable by Members and Associated and Affiliated Institutes;
- 12.5.10 make, revoke, add to or amend Regulations for the administration of the Institute, pursuant to the provisions of the Constitution, provided that no such regulations shall be in contradiction or contravention of any provision contained in the Constitution;
- 12.5.11 except where otherwise provided at all meetings of the President's Committee, in the event of a difference of opinion, the vote of the majority of members shall prevail, and in the case of equality of votes the chairman shall have a casting vote in addition to his/her deliberate vote.

### **13 FORMATION OF COMMITTEES**

- 13.1 The President's Committee may appoint Committees, and delegate to them any of the powers of the President's Committee, or assign to them such duties as may be agreed;
- 13.2 Any Committee shall in the exercise of its powers conform to any instructions given by the appointing body, but shall in all other respects regulate its own procedure. The President, the Deputy President and the Honorary Treasurer shall be entitled to attend all meetings of such Committees except those of the Disciplinary Committee and Appeal Committee. For all Institute Committees other than the Disciplinary Committee and the Appeal Committee a quorum shall be one third of the total membership of the Committee or two members, whichever is the greater;
- 13.3 Each Committee shall have the right to co-opt any staff member of The Institute to serve on that committee and to decide whether such staff member is entitled to vote on a ballot of the committee;
- 13.4 The powers and authority of each sub-committee shall be set out in the Regulations provided that the President's Committee may by duly executed resolution add to or subtract there from when deemed necessary;
- 13.5 Any committee shall be entitled to receive the support of the staff of The Institute and call upon the services and facilities of The Institute within reason and at reasonable hours. Chairmen of Committees appointed by the President's Committee shall be entitled to use the stationery of The Institute including the letterheads, provided that any correspondence generated on such stationery shall at all times be copied to The Institute Chief Executive Officer for entry into the records of The Institute, provided such correspondence is solely in the execution of the Chairman's or Committee's duties.

### **14 COMMITTEES**

#### **14.1 Disciplinary Committee**

There shall be appointed in each year a Disciplinary Committee, consisting of not less than three members, appointed by the President's Committee from among Professional members of the

Institute. The Disciplinary Committee shall be for the purpose of investigating questions which may arise under the Constitution and Regulations and breaches and contraventions thereof and having regard to the qualifications, methods and terms of admission, rights and obligations, including authority and liability to expulsion or suspension and of considering questions of professional practice generally, the upholding of professional standards and ethics and abiding by the provisions of the Code of Conduct, including compliance with and breaches of the provisions of legislation, regulations, requirements and directives of legal regulatory bodies and authorities, and cases of alleged misconduct and breaches of fiduciary duty by the member. The chairman of the Disciplinary Committee shall be appointed by the President's Committee, which Committee shall have the right to appoint a Professional Legal Practitioner to hear and assist the Disciplinary Committee in its investigations, hearings and deliberations in respect of any issue. The Disciplinary Committee may refer matters to the Constitution and Regulations Committee for consideration for inclusion in the Constitution and Regulations.

#### 14.2 **Appeal Committee**

There shall be appointed in each year an Appeal Committee, consisting of not less than three professional members of The Institute, appointed by the President's Committee for the purpose of hearing appeals from decisions of the Disciplinary Committee. The Chairman of the Appeal Committee shall be appointed by the President's Committee from among Professional members of The Institute. At the request of either the Appeal Committee or the appellant, the President's Committee may appoint a person who is not necessarily a Member (and is independent of the appellant) to be co-opted by the Appeal Committee; such appointee may be a Professional Legal Practitioner to hear and assist the Appeal Committee in its investigations, hearings and deliberations in respect of any issues. Of the Appeal Committee any two of the members appointed by the President's Committee or one third of the total membership of the Committee, whichever is greater, shall form a quorum.

#### 14.3 **Professional Standards Committee**

There shall be appointed in each year a Professional Standards Committee consisting of not less than three members, appointed by President's Committee from among Institute members. The Professional Standards Committee shall have as its purpose to focus on issues arising, inter alia, under the Constitution and Regulations and having regard to qualifications and procedures for and terms of admission, rights and obligations of members provisions regarding the liability to expulsion or suspension and the consideration of questions of professional practice generally, the determination of professional standards and ethics and of sanctions applicable in respect of breaches of codes of conduct and for misconduct generally, as well as liaison and interaction with professional bodies with similar objectives. The Professional Standards Committee shall also focus on all issues relating to membership of The Institute including, *inter alia*, eligibility, admission / election, the rights and obligations of members, the classification of members into designated groupings with corresponding rights and obligations and all matters pertaining to the above and to refer matters to the Constitution and Regulations Committee for consideration for inclusion in the Constitution or Regulations.

#### 14.4 **Constitution and Regulations Committee**

There shall be appointed each year a Constitution and Regulations Committee consisting of not less than two members appointed by the Board of Directors from among Institute Members. The Constitution and Regulations Committee shall have as its purpose to focus on all issues relating to the drafting, amendment and updating of the Constitution of The Institute and the Regulations relevant to such Constitution, as well as of formal documents relating to ethics, standards, formalities and procedures required for the effective and efficient management of The Institute and to make recommendations in regard thereto and shall refer additions or amendments to the Regulations to the Board of Directors for consideration and approval.

#### 14.5 **Audit and Remuneration Committee**

There shall be appointed in each year an Audit and Remuneration Committee consisting of the President, Chief Executive and Honorary Treasurer. The Audit and Remuneration Committee shall, in collaboration with the accountants and auditors of The Institute have as its purpose to focus on all financial issues relating to the finances of The Institute and shall monitor the integrity of the financial statements, including the annual and any interim reports and also, inter alia, accumulation of funds,

the allocation, distribution, control and monitoring of all income and expenditure, and remuneration, budgeting and cash flow issues required for the effective and efficient management of The Institute and to make recommendations in regard thereto and to refer matters to the Constitution and Regulations Committee for consideration for inclusion in the Constitution or Regulations.

## **15 ACCOUNTS AND AUDIT**

- 15.1 Annually, The Institute's Audited Financial Statements, as at the Financial Year end shall be certified by the Auditors as provided below. These Audited Financial Statements shall be presented to the Board of Directors and President's Committee by the Honorary Treasurer. An abstract thereof shall be printed and issued with the Annual Report and presented to the Members in accordance with the provisions of Clause 9.2.1 of the Constitution of The Institute;
- 15.2 The Auditors shall be appointed by the Annual General Meeting, which shall fix their remuneration as it thinks fit. The Auditors shall hold office from the close of the Annual General Meeting at which they were appointed until the close of the next Annual General Meeting;
- 15.3 Auditors shall be eligible for re-appointment. If any vacancy should occur between two Annual General Meetings, or if no Auditors be appointed as aforesaid, the President's Committee may appoint Auditors for the vacancy and fix their remuneration as it shall think fit for the remainder of that year and until the next Annual General Meeting. However, details of the appointment so made by the President's Committee shall be submitted to the Board of Directors at the first succeeding meeting of the Board thereafter.

## **16 INDEMNITY OF OFFICERS**

The members of the Board of Directors, the President's Committee, Honorary Treasurer, Chief Executive and other officers shall be indemnified by The Institute from all losses and expenses incurred by them in or about the discharge of their respective duties, except such as occur from their own respective wilful default, and no member of the Board of Directors, President's Committee, Chief Executive Officer or other officer shall be liable for any other member of The Institute or officer, or for joining in an act or receipt, or for any act of conformity or for any loss happening to The Institute unless the same shall be due to his own wilful default. Nor shall any member be liable in his personal capacity, jointly or severally, for any monies, financial or other obligations of The Institute or any Associated or Affiliated Institute, Association or body and shall be and are hereby indemnified and held harmless against any claim or demand by any third party as a result of any act or omission in the performance of their duties for or on behalf of The Institute, from whatever cause, provided such person/s acted in good faith.

## **17 TERMINATION OF MEMBERSHIP**

- 17.1 Any Professional or General Member shall, without prejudice to his liability to The Institute, be entitled to resign his membership on giving to the Chief Executive one month's notice in writing of his intention to do so;
- 17.2 If any person from whatever cause, voluntarily or otherwise, ceases to be a Professional or General Member of The Institute, or to be entitled to the rights of any qualification or class of membership, he shall henceforth, in addition to any sanction or disciplinary measure, including suspension or banning, imposed by the designated disciplinary authority within the Institute structure, in terms of the provisions of the Constitution or as provided for in the Regulations, be prohibited from displaying the professional designation to which he previously had the right, behind his name.. No person ceasing to be a Professional or General Member shall have, nor shall his representatives have any interest in or claim against the funds or property of The Institute except as provided in the Constitution.



## **18 INTERPRETATION OF THIS CONSTITUTION**

Any dispute or issue as to the intention, meaning and effect of all or any of the provisions of this Constitution, and of any Regulations under this Constitution, shall be referred for decision to the Constitutional sub-committee formed in terms of Article 14.6, which sub-committee shall consist of not less than three and not more than five persons. The decisions of that sub-committee shall be final and binding.

## **19 THE SEAL**

The Chief Executive will be responsible for the safe custody of the Seal, which shall never be used except by the authority of the President's Committee and every document to which the Seal is affixed shall be signed by one member of the President's Committee and countersigned by the Chief Executive or some other person appointed by the President's Committee.

## **20 TAX EXEMPTION**

- 20.1 All activities of the association as a public benefit organisation shall be carried on in a non-profit manner and with an altruistic or philanthropic intent and with the intention of utilising all funds to further the aims and objectives of The Institute;
- 20.2 The Institute shall have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of such organisation and no single person directly or indirectly controls the decision making powers relating to The Institute;
- 20.3 The Institute is prohibited from distributing any of its funds to any person (otherwise than in the cause of undertaking any public benefit activity) and is required to utilise its funds solely for the object for which it has been established, or to invest such funds
  - 20.3.1 with a financial institution as defined in Section 1 of the Financial Services Board Act 1990 (Act no. 97 of 1990);
  - 20.3.2 in any listed financial instrument of a company;
  - 20.3.3 in such other prudent investments in financial investments and assets as the Commissioner may determine after consultation with the Executive Officer of the Financial Services Board and the Director of Non-Profit Organisations;
- 20.4 The Institute shall be required on dissolution to transfer its assets to -
  - 20.4.1 any similar public benefit organisation which has been approved in terms of the Act; or
  - 20.4.2 any institution, board or body which is exempt from tax under the provisions of Section 10 of the Income Tax Act, which has as its sole or principal object the carrying on of any public benefit activity; or
  - 20.4.3 any department of state or administration in the national or provincial or local sphere of government of the Republic, contemplated in Section 10 of the Act;
- 20.5 The Institute shall be prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of the Act;
- 20.6 The Institute shall be required to submit to the Commissioner a copy of any amendment to the Constitution under which it was established;
- 20.7 Has not and will not pay any remuneration to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects;
- 20.8 Complies with such reporting requirements as may be determined by the Commissioner;
- 20.9 Has not and will not use its resources directly or indirectly to support, advance or oppose any political party.

## **21 DISSOLUTION OR WINDING UP OF THE INSTITUTE**

The Institute may be dissolved or wound-up, at any time, by Members in an Annual General Meeting or Special General Meeting, upon a majority vote of not less than 75% (seventy-five per centum) of the total votes of Members, whose representatives are present and entitled to vote, provided that not less than 6 (six) weeks written notification of such meeting and of any resolution aimed at dissolving or winding-up The Institute shall have been given to all Members. Upon the dissolution or winding-up of The Institute, all the property, intellectual property, funds and assets of The Institute after payment of all monies owing to any third parties, shall be transferred free of compensation to any other Association/s, company/s, or organisation/s having objects similar to those of The Institute at the discretion of members as may be directed by the resolution dissolving The Institute as decided at the General Meeting and subject to the provisions of Section 30 of the Income Tax Act No. 58 of 1962.