

FIRST DRAFT – FOR DISCUSSION PURPOSES ONLY

RULES OF THE ASSOCIATION OF BUSINESS ADMINISTRATORS ~~ION AND~~ ~~RESCUE PROFESSIONALS~~ (AN ASSOCIATION INCORPORATED UNDER SECTION 21)

Registration No. of Company
2000/029897/08

A. The Rules of the Association ~~are~~ as ~~follows~~ follows:

1. **DEFINITIONS**

- 1.1. “the Act” – means the Companies Act, Act 61 of 1973, including any amendment, consolidation or re-enactment thereof;
- 1.2. “the Applicant” – means any person, firm, partnership, company or close corporation who applies to become a member of the Association;
- 1.3. “the Articles” – means the Articles of Association of the Association and any amendments effected thereto by Special Resolution;
- 1.4. “the Association” – means the Association of Business Administrators ~~ion and Reseue Professionals~~ (an Association incorporated under Section 21 of the Act);
- 1.5. “Auditors” – means the auditors of the Association;
- 1.6. “the Executive” – means the Executive Committee for the time being of the Association or, as the case may be, the

members of the Executive assembled at an Executive Meeting at which a quorum is present and shall consist of the Chairman, Vice Chairman, Secretary, Treasurer and such other members as provided for in the Articles of Association.

- 1.7. “The Rules” – means this Rules of the Association and any amendments and/or schedules thereto;
- 1.8. “Court” – means any provincial or local division of the High Court of South Africa and shall include any Court of Appeal or the Constitutional Court.
- 1.9. “communicated” – shall mean the serving of notices as provided for and as envisaged in terms of Clause 23 of the Articles of Association;
- 1.10. “Domicilium” – means the registered office of the Association from time to time.
- 1.11. “Unprofessional or unethical conduct” – shall include any conduct prescribed as such which shall within the context include fraudulent or negligent conduct.
- 1.12. “business administration~~—and—rescue~~” – means the professional practice and application of business administration [as envisaged in the Business Administration Act](#) ~~and rescue~~.
- 1.13. “Master” – means any Master of the High Court of South Africa;

- 1.14. “meeting” – shall include an adjourned meeting;
- 1.15. “member” – means any person, firm, partnership, company or close corporation registered as a member of the Association in the register of members;
- 1.16. “Minister” – means the Minister of Justice;
- 1.17. “the office” – means the principal place of business of the Association;
- 1.18. “business administration ~~and rescue~~ professional” – means any member registered as such in the register of members of the Association;
- 1.19. “practicing member” – means any corporate or individual member who qualifies to be a member of the Association;
- 1.20. “corporate member” – means subject to these Rules, any firm, partnership, company or close corporation whose business includes business administration ~~and rescue~~ and who qualifies to be a member of this Association.
- 1.21. “individual member” – means subject to these Rules, any natural person, being a member of the Association, being a business administration ~~and rescue~~ professional.
- 1.22. “Republic” – means the territory of the Republic of South Africa;

- 1.23. “person” – means a natural person;
- 1.24. “practicing corporate member” – means a corporate member who has at least one partner and/or who has in its employ at least one director and such partner or director, as the case may be is a registered member of the Association;
- 1.25. “non-practicing corporate member” – means a corporate member whose partner/s and/or director/s and employees are not registered members of the Association and such non-practicing corporate member has in the opinion of the Executive a bona fide interest in business administration and ~~business rescue and~~ is a member of the Association as envisaged and as provided for in terms of these Rules and the Articles of Association;
- 1.26. “the register” – means the register of members of the Association kept by the Association pursuant to the Articles;
- 1.27. “the Chairman” – means the Chairman of the Executive;
- 1.28. “the Vice Chairman” – means the Vice Chairman of the Executive;
- 1.29. “the Treasurer” – means the Treasurer of the Association for the time being, or any person duly authorised thereto by the Executive acting in the place of such Treasurer for the time being, or any person appointed by the Executive to perform any of the duties of the Treasurer or any person

duly authorised to represent a corporate body which is the Treasurer of the Association;

1.30. “the Secretary” – means the Secretary of the Association for the time being, or any person duly authorised thereto by the Executive acting in the place of such Secretary for the time being, or any person appointed by the Executive to perform any of the duties of the Secretary or any person duly authorised to represent a corporate body which is the Secretary of the Association;

1.31. “examination” – means any Diploma or like qualification in business administration ~~and rescue~~ awarded by any tertiary educational institution recognized and approved by the Executive from time to time.

2. Unless the context otherwise requires :-

2.1. Words importing the singular shall include the plural and vice versa;

2.2. Words importing natural persons shall include firms and corporate bodies;

2.3. Words importing any one gender shall include the other gender;

3. Subject as aforesaid, any words or expressions defined in the Act or in any Statutory amendment of such Act in force at the date on which these Articles become binding on the Association shall, if not inconsistent with the subject or context, bear the same meaning in the Articles.

4. **THE RULES**

4.1. The rules provided herein shall be read together with the Memorandum and Articles of Association and shall :

4.1.1. apply to and be binding on all members of the Association;

4.1.2. apply to all applicants for membership;

4.1.3. be read together with the Articles of the Association;

4.1.4. be amended, varied and/or altered by the Executive, which amendments, variations and/or alternations shall be read as if specifically incorporated herein. Specifically the Association anticipates that the Business Administration Act will remove the current uncertainties that surround the business administration process. Once this is brought into law the Association will then be in a position to institute a formal review process that evaluates the knowledge and expertise of all applicants prior to admitting them as members.

5. **MEMBERSHIP**

5.1. The Rules governing Membership shall apply until the December immediately succeeding the lapse of a twenty four month period which period shall start from the date of the passing into law of the Business Administration Act. (“the interim period”).

Upon the passing into law of the Business Administration Act, the Executive will without delay cause to be set up and duly approved, an Examination, which all Individual Members will be required to sit and pass by the end of the interim period. Individual Members who fail to pass the Examination by the end of the interim period will then be deregistered.

As from first day of the January that succeeds the interim period, all persons who apply to join the Association will have had to successfully pass any examinations and complete any Articles that are required as contemplated in 18.

5.2. Members of Association shall be divided into the following categories, and until the completion of the interim period, Membership qualifications and methods of election shall be as follows :-

5.1.1.5.2.1. **Honorary Members** : Persons who have enjoyed a distinguished career in the field of business, business rescue, commerce, law or education or in the Office of the Master or who,

in the opinion of the Executive are qualified for such membership. Election of honorary members shall be by the Association at a General Meeting upon nomination by the Executive. Despite election no person shall become an honorary member unless he/she has agreed in writing to his/her election and accepted such honorary membership after election.

5.2.5.2.2. **Practicing Corporate Members :**

~~5.2.2.~~A firm, partnership or company of attorneys, who are registered members of the Law Society and who has at least one shareholder/partner or one director in its employ being a practicing member as defined.

5.2.2.1.

5.2.2.2.

~~5.2.2.~~A firm, partnership or company of chartered accountants, who are registered members of the South African Institute of Chartered Accountants and

who has at least one shareholder/partner or director in its employ being a practicing member as defined.

5.2.3.5.2.2.3. Any other firm, partnership, close corporation or company of persons who has no less than one shareholder or director in its employ being a practicing member as defined.

5.3.5.2.3. **Individual Members** : any person ~~individual~~ who is either :-

5.3.1.5.2.3.1. An attorney, qualified as such for a period of no less than 3 years and, who is a member of a Law Society within the Republic of South Africa;

5.3.2.5.2.3.2. A Chartered Accountant, qualified as such, for a period of no less than three (3) years and who is a member of the South African Institute of Chartered Accountants;

~~5.3.3.5.2.3.3.~~ Any practicing Liquidator who has been registered as such and on the Master's panel for a period of no less than eight (8) years;

~~5.3.4.~~ Any other person who has graduated with either ÷

~~5.3.4.1.a~~ Bachelor degree in law; ~~or~~

~~5.3.4.2.a~~ Bachelor degree in commerce; ~~or~~

~~5.3.4.3.5.2.3.4.~~ a Bachelor degree in management; commerce or management

and has no less than eight (8) years experience in law, commerce and management, as the case may be;

~~5.3.5.~~ Any other person who has graduated with ~~either either~~ ÷

~~5.3.5.1.~~ an Honors degree in law; or

~~5.3.5.2.~~ an Honors degree in commerce; ~~or~~

~~5.3.5.3.5.2.3.5.~~ an Honors degree ~~or~~ in management;

and has no less than five (5) years experience in law, commerce and management, as the case may be;

~~5.3.6.~~ Any other person who has graduated with either ~~÷~~

~~5.3.6.1.~~ a Masters degree in law; ~~or~~

~~5.3.6.2.~~ a Masters degree in ~~÷~~ commerce; ~~or~~

~~5.3.6.3.~~ ~~5.2.3.6.~~ a Masters degree in management;

and has no less than three (3) years experience in law, commerce and management, as the case may be;

5.4.5.3. **Non-Practicing Corporate Members** : any corporate member, as registered in the register of the Association that does not have any shareholders and/or directors registered as practicing members as defined.

5.5.5.4. Practicing corporate members shall be obliged to register its shareholders and/or directors who qualify in terms of the membership criteria provided for herein as an individual member/s of the Association and in this regard the prescribed fees shall apply.

6. **CHANGE OF MEMBERSHIP**

6.1. Any non-practicing corporate member who, at any time becomes eligible to be admitted as a practising corporate member may apply to the Executive for a change of membership from a non-practicing corporate member to a practicing corporate member, provided that the Executive is satisfied that such member qualifies as a practicing corporate member, whereupon the Executive shall forthwith convert such membership from that of a non-practising corporate member to a practicing corporate member.

6.2. Any corporate member who ceases to be engaged in business administration ~~and rescue~~ on a permanent basis, shall forthwith notify the Executive of such changed circumstances and shall immediately cease to be a practicing member of the Association.

7. **FEES**

7.1. The Executive may from time to time levy service fees upon the members for the purpose of meeting all expenses which the Association has incurred, or which the Executives reasonably anticipate the Association will incur, in the achievement of its objects.

7.2. The Executive shall be empowered, in addition to such other rights as the Association may have in law as against its members, to determine the rate of interest from time to

time chargeable upon arrear service fees, provided that such rate of interest shall not exceed the rate laid down in terms of the Usury Act, Act No. 73 of 1968 as amended.

7.3. Any amount due by a member by way of fees and interest, shall be a debt due by him to the Association.

7.4. No service fee or interest paid by a member shall under any circumstances be repayable by the Association upon such member ceasing to be a member.

8. **QUALIFICATION FOR AND REGISTRATION OF MEMBERSHIP**

8.1. Any person or legal entity who qualifies to be registered as a member of the Association as provided for herein, shall in writing lodge with the Executive an Application in such form as may be prescribed for such registration accompanied by the prescribed fee and such information and documentation as the Executive may require from time to time.

8.2. If after consideration of such application, the Executive is satisfied that the Applicant :-

8.2.1. In the event of a natural person :

(a) Satisfies the membership criteria as provided for in these Rules or any amendments thereto; and

- (b) Is not less than 21 (twenty one) years of age; and
- (c) is a registered citizen of the Republic; and
- (d) is a fit and proper person to be registered as a member; and
- (e) has satisfied the Executive in terms of these Rules that he/she is qualified to be registered as a member;

then and in such event the Executive shall register the applicant as an individual member of the Association and issue to him/her a certificate of registration in such form as it may prescribe.

8.2.2.

In the event of a corporate entity :

- (a) Being a firm, partnership, close corporation or company; and
- (b) Being registered as such in accordance with the Laws of the Republic; and

(c) Having satisfied the Executive in terms of these Rules; and

(d) Has satisfied the Executive that it qualifies to be a member;

then and in such event the Executive shall register the applicant as a practicing corporate member or non-practicing corporate member, as the case may be, of the Association and issue to it a certificate of registration in such form as it may prescribe.

9. **DISQUALIFICATION FOR MEMBERSHIP**

9.1. The Executive may decline to register membership on the following grounds :-

9.1.1. In the event of a person :

(a) if he has at any time been removed from an office of trust on account of misconduct or dishonesty; or

(b) If in the case of an applicant who is or was an attorney or chartered

accountant, if such person has at any time been suspended or removed from the roll of practicing attorneys and chartered accountants by a competent authority; or

- (c) If in the case of an applicant who is or was a liquidator, if such person at any time has been removed from the Master's panel; or
- (d) If he has been declared by a competent authority to be of unsound mind; or
- (e) If his name has been struck off the register of members after having been convicted by the Executive of unprofessional or unethical conduct; or
- (f) If he is an un-rehabilitated insolvent; or
- (g) If he is the subject of any Order under the Act disqualifying him from being a Director of a company or a member of a Close Corporation in terms of the

relevant provisions of the Close Corporations Act No. 69 of 1984;

- (h) If he has been convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document or perjury or any offence of dishonesty.

9.1.2.

In the event of a corporate entity

- (a) if such entity has been sequestrated or liquidated, as the case may be; or
- (b) in the case of a practicing corporate member in the event of any of its shareholders and/or directors being sequestrated or removed from office of trust on account of misconduct or dishonesty or declared by a competent authority to be of unsound mind or is an unrehabilitated insolvent or is disqualified as being a director or member or has been convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document or perjury or any offence of dishonesty.

9.2. The decision of the Executive within the context of clause 9.1 above will be final.

10. **CORRECTION OF REGISTER**

If the Executive at any time has reason to believe that a member has been or has become incorrectly registered, it may call for such evidence as it thinks fit as to the correctness of the registration and if satisfied that the member has been or is incorrectly, registered, it shall correct the register and issue an amended certificate. The former certificate shall cease to have effect, and shall be returned forthwith to the registered office of the Association.

11. **DEREGISTRATION OF MEMBERS**

11.1. The registration of any person as a member shall lapse if such natural person :-

11.1.1. Dies;

11.1.2. Ceases permanently to reside in the Republic; or

11.1.3. Fails to pay any fee, levy or other charges or portion thereof prescribed in terms hereof and payable by him, within 3 (three) months after such a fee or portion becomes due or within such further period, which the

Executive may in any particular case allow.

11.1.4. Fails to pass the examination within the time period as prescribed by the Executive.

11.2. The registration of any corporate member shall lapse if such corporate member :

11.2.1. Ceases to exist for any reason whatsoever; or

11.2.2. Ceases to practice within the Republic; or

11.2.3. Fails to pay any fee, levy or other charges or portion thereof prescribed in terms hereof and payable by him, within 3 (three) months after such a fee or portion becomes due or within such further period, which the Executive may in any particular case allow.

11.3. The Executive may cancel the registration as a member of any member who :

11.3.1. Subsequent to his registration, becomes subject to any of the

disqualifications mentioned in Clause 9 of these Rules;

11.3.2. Is found, subsequent to his registration, to have been disqualified at the time of being admitted as a member by virtue of any of the disqualifications mentioned in Clause 9 of these Rules.

11.4. The Executive shall forthwith cancel the registration of any member :

11.4.1. Whose estate is sequestrated/ liquidated; or

11.4.2. Whose registration was made in error or on information subsequently proved to be false or incorrect; or

11.4.3. Who has prior or subsequent to its/his registration been guilty of conduct by reason whereof it/he is in the opinion of the Executive not fit and proper to be registered as a member; or

11.4.4. Who is removed from its/his office as a business administration and rescue professional and the

Executive is of the opinion that it/he is not fit and proper to remain registered as a member; or

11.4.5. Who, in the case of a natural person, if he is an attorney or accountant, is removed or suspended from the roll of practicing attorneys or chartered accountants as the case may be, by a competent authority; or

11.4.6. Who, in the case of a natural person, ceases to be an acceptable appointee to the Master and the Executive is of the opinion that he is not a fit and proper person to remain registered as a member.

11.5. Before cancelling any registration, the Executive shall give to the member not less than 21 (twenty one) days notice in writing of its intention to take such action, setting out the reasons why it intends to do so, and informing the member that if within 21 (twenty one) days of dispatch of the notice he informs the Executive in writing of his desire to do so, the Executive will give him or his representative an opportunity before the action is taken, of showing cause why his registration as a member should not be cancelled.

11.6. If, after giving any member the opportunity of being heard, the Executive decides to cancel the registration, it shall make an order to that effect and shall send a copy of the

order to all the Masters, the Court and to the other interested party as the Executive deems fit.

- 11.7. The Executive may, in its sole discretion, at the written request of a member, remove its/his name from the register, but the removal shall not exonerate such member for the payment of any outstanding monies due to the Executive, nor shall it prevent the Executive from instituting any disciplinary proceedings against such member either before or after such resignation in respect of the member's conduct during the tenancy of its/his membership.

12. **INFORMATION TO BE FURNISHED BY MEMBERS**

12.1. **INDIVIDUAL PERSONS**

12.1.1. Every person who is registered as a member shall notify the Executive in writing of any changes in his name or the name of any firm, partnership or company and the members thereof with which he is associated or employed, including the current postal and physical address, telephone and telefax numbers and email address within 30 (thirty) days after the date on which such change takes place.

12.1.2. Every person who is desirous of registering as a member of the

Association shall, over and above any particulars which are to be furnished at the request of the Executive, furnish the following information :-

- (a) Every name under which he or his employer practices;
- (b) If he is employed by a Company, the names of the beneficial shareholders of the company;
- (c) The place or places of business of himself, his firm or his company;
- (d) If he practices in partnership, or is employed by a partnership, the full names of all his partners;
- (e) His nationality, his identity number, his first names, his surname and every surname which he may have borne previously and his residential address;

- (f) His full details of his membership of other professions.
- (g) The names of any other company or corporation in which he has an interest, financially or otherwise, whether directly or indirectly, whose main business is that of business assessment and recovery.
- (h) His current postal and physical address, telephone and telefax numbers and current email address.

12.2.

CORPORATE MEMBERS

12.2.1.

Every corporate member who is registered as a member, shall notify the Executive in writing of any changes in its name or the name of any firm, partnership or company with which it is associated, including the current postal and physical address, telephone and telefax numbers thereof, within 30 (thirty) days after the date on which such change takes place.

12.2.2.

Every corporate member who is desirous of registering as a member of the Association shall over and above any further particulars which are to be furnished at the request of the Executive, furnish the following information :-

- (a) The name and style under which it practices;
- (b) If a company/corporation, the names of the beneficial shareholders/members and directors of the Company;
- (c) If a partnership, the full names of all partners;
- (d) The place or places of business, together with postal and physical addresses.
- (e) Its registration number and copies of any other statutory documents to confirm inter alia : legal registration and standing, Directors, members and shareholders;

- (f) Full details of its membership of other professions.
- (g) The names of any other company, corporation, firm or partnership in which it has an interest, financially or otherwise, whose main business is that of business assessment and business rescue.
- (h) Its current telephone and telefax numbers and current email address.

12.3. Every corporate member or individual who is registered as a member :-

12.3.1. and who, is not actively engaged in business administration ~~and rescue~~, shall notify the Executive forthwith if he/it commences business administration ~~and rescue~~, subject to the relevant provisions of these Articles.

12.3.2. and who, is engaged in business administration ~~and rescue~~, shall notify the Executive forthwith if he/it

ceases to be engaged in business administration ~~and rescue~~.

13. **POWERS OF EXECUTIVES**

13.1. Without in any way derogating from the powers provided for in the Articles of the Association, the Executive shall have the power :-

13.1.1. To determine the procedure at meetings of the Executive or any committee of the Executive;

13.1.2. To determine the area of responsibility of each Executive member from time to time;

13.1.3. To prescribe an initial registration fee which shall be payable to the Association in respect of the registration of any person as a member;

13.1.4. To prescribe or conduct or make arrangements for the conduct of lectures for business administrators ~~and rescue~~ ~~professionals~~ or other persons who would be desirous of registering as a member and to prescribe fees which shall be payable to the Association in respect of such lectures.

13.1.5. To prescribe the books, records, certificates or other documents to be kept, maintained or issued by professionals and to inspect same from time to time by persons authorised by the Executive for such purpose.

13.1.6. To prescribe the information to be furnished to the Executive by any business administrator ~~or ion and rescue professional~~ who :

- (a) Commences or discontinues to practice as a business administrator ~~or ion and rescue professional~~;
- (b) Ceases to be employed as a business administrator ~~or ion and rescue professional~~;
- (c) Enters into or withdraws or resigns from a corporate member of the Association.
- (d) Practices as a business administrator ~~or ion and rescue professional~~ and who changes

his business or residential address.

- 13.1.7. To pay any person allowances to cover expenses reasonably incurred by such person in connection with the performance of any act at the request of or under the directions of the Executive on behalf of or for the benefit of the Association.
- 13.1.8. To prescribe the tariff of fees payable to any member in respect of services rendered by him as a business administration and rescue professional in cases where no tariff is prescribed in any other law.
- 13.1.9. To prescribe the tariff of assessment of the fees payable by any person to a business administrator ~~ion and rescue professional~~ in respect of the performance on behalf of such person of any work, and at the request of such person or member, and assess such fees.
- 13.1.10. To make such order with regard to the costs incurred by it in the hearing of an enquiry into allegations of

unprofessional or unethical conduct,
as it may deem fit;

- 13.1.11. To take any steps including the incurring of any reasonable expenditure which it may consider expedient for the maintenance of the integrity, the enhancement of the status and the improvement of the standards and qualifications of members and to encourage research in connection with problems relating to any matter affecting them.
- 13.1.12. To finance, print, circulate, administer the publication of, and generally to take any steps necessary to publish a journal or any other publication relating to business assessment and rescue.
- 13.1.13. To invest its funds in such a manner as it may deem fit.
- 13.1.14. To assist in the provision of education or facilities for persons desiring to become registered as members.
- 13.1.15. To establish a fund for the purpose of compensating any person for loss or

damage suffered by him as a result of dishonesty or negligence in the conduct of business administration and rescue by a member, and to provide for the administration and control of such funds by the Executive.

- 13.1.16. In its discretion to pay the premium or any portion thereof payable in respect of a professional indemnity group insurance policy taken out in favour of members of the Association.
- 13.1.17. To conduct such commercial enterprise as the members at a General or Special Meeting may approve.
- 13.1.18. To determine the domicilium of the Association.
- 13.1.19. To determine the manner in which the Executive shall conduct its business.
- 13.1.20. To take any steps including the incurring of any reasonable expenditure which is necessary to ensure and enhance the membership

of the Association to be representative of a democratic South Africa.

13.1.21. To take any steps including the incurring of any reasonable expenditure which it may consider to enhance the status and qualifications of previously disadvantaged persons with the specific objective of encouraging and facilitating aforesaid persons becoming members of the Association.

13.1.22. Ancillary to the powers as stated herein above, to establish a fund for the purpose of financially assisting previously disadvantaged persons in order to ensure and enhance their qualifications with the specific objective of encouraging and facilitating their membership, and to provide for the administration and control of such fund.

14. **CONDUCT**

Unprofessional or unethical conduct on the part of a member shall include, inter alia, the following :-

14.1. Knowingly employing in connection with its/his practice, except with the prior written consent of the Executive :

14.1.1. Any person while such person is suspended or debarred by the Court or the Master or the Association from acting as a business administrator ~~orion~~ ~~and~~ ~~reseue~~ professional.

14.1.2. Any person not registered as a member whom the Executive has refused to register; or

14.1.3. Any person who has at any time been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document or perjury or any offence of dishonesty or any other crime that could render him an improper and unfit person to be a member.

14.2. The sharing of any income derived from any business administration and rescue project in which he/it is involved, with any person or legal entity other than the employer of the business administrator ~~orion~~ ~~and~~ ~~reseue~~ professional, without the approval of the Executive. Notwithstanding the foregoing the business administrator ~~orion~~ ~~and~~ ~~reseue~~ professional shall be allowed to enter into fee sharing arrangements with other business administrator ~~orion~~ ~~and~~

~~rescue professionals~~, provided said arrangements are in accordance with the regulations of the statutory body regulating the said professionals.

- 14.3. Agreeing with any person, whether in principal or otherwise, to accept a fee for performing its/his duties as a business administrator ~~or ion and rescue professional~~, for less than that set out in the appropriate tariff.
- 14.4. The failure to keep books of account and records in respect of all the financial transactions relating to his/its practice as a business administrator ~~or ion and rescue professional~~.
- 14.5. Any contravention of any statute or regulation applicable to business administration ~~and rescue~~.
- 14.6. Neglecting to give proper attention to its/his practice as a business administrator ~~or ion and rescue professional~~.
- 14.7. Failing to answer or appropriately to deal with, in a reasonable time, any correspondence or other communications which reasonably require a reply or other response.
- 14.8. Failing to properly comply with an order, requirement or request of the Executive or the Court;
- 14.9. Making a donation or payment in any form, whether by way of formal presentation or otherwise, to a public official or a public office other than at the request or through the medium or under the authority of the Executive.

- 14.10. Receiving any untoward benefit, either directly or indirectly arising out of or in pursuance of his/its practice of a business administration and rescue professional.
- 14.11. Failing to comply with any of the provisions of these Rules and/or the Articles of the Association.
- 14.12. Such other conduct as the Executive in its discretion may consider unprofessional or unethical.

15. **DISCIPLINARY POWER OF EXECUTIVE**

- 15.1. The Executive shall have power to either *mero moto* or as a result of any complaint made against any member by any interested party, to enquire, in camera into cases of alleged unprofessional or unethical conduct (whether or not prescribed to constitute unprofessional or unethical conduct) of persons who are registered as members, and to impose in respect thereof any punishment prescribed in terms of these Rules, provided that in the case of alleged unprofessional or unethical conduct which forms or which the Executive has reason to believe is likely to form the subject of criminal or civil proceedings in a competent Court of law, the Executive may postpone the enquiry until such proceedings have been determined.
- 15.2. For the purpose of conducting an enquiry into any alleged unprofessional or unethical conduct, the Executive shall appoint a sub-committee of up to 5 (five) persons to hear such enquiry which persons may or may not be members of

the Association, one of whom shall be appointed by the Executive as the Chairman of such proceedings.

15.3. The sub-committee appointed as provided for in this clause conducting an enquiry may find the member concerned guilty of unprofessional or unethical conduct and may :

15.3.1. In the case of a member, in addition to any order made as provided for herein :

- (a) Reprimand him/it; and
- (b) Suspend its/his membership of the Association for such period as the Executive may consider appropriate; and/or
- (c) Impose upon him/it a fine not exceeding R250 000.00; and/or
- (d) Cancel its/his membership of the Association and order the removal of his/its name from the register.

15.4. Where the sub-committee finds the member referred to herein above guilty of the alleged conduct and has imposed a penalty as set out above, it may :

- 15.4.1. On the condition determined by it, postpone the taking of any steps in respect of it/him or the imposition of any punishment upon it/him; and/or
- 15.4.2. On the conditions determined by it, impose the fine referred to above, but suspend the payment of such fine or any part thereof; and/or
- 15.4.3. In addition to any other punishment imposed, order the member to pay all costs incurred in holding the enquiry including the payment of a reasonable remuneration for those persons serving in the disciplinary hearing or of any person called upon to advise the Executive.
- 15.5. If the taking of any steps for the imposition of any punishment has been postponed for a particular period and if at the end of that period the Executive concerned is satisfied that the member concerned has substantially observed all the relevant conditions imposed, the Executive shall inform that member that no further steps will be taken against it/him or that no further punishment will be imposed upon it/him.
- 15.6. If the payment of a fine or any part thereof has been suspended by an executive for a particular period and if at the end of such period the Executive concerned is satisfied

that the member concerned had substantially observed all the relevant conditions imposed, the Executive shall inform such member that the payment of that fine or part thereof will not be enforced.

15.7. The Executive will be obliged to keep the disciplinary record of each member found guilty of unprofessional or unethical conduct, which record must be taken into consideration when the Executive imposes a penalty as set out herein above.

15.8. Notwithstanding anything contained herein, in the event of a member on more than two occasions being found guilty of unprofessional or unethical conduct then in such event upon a third conviction, the Executive will be obliged to in addition to any penalty, cancel its/his membership of the Association and order the removal of its/his name from the register.

15.9. The Executive may, to such extent as it may decide, publish information relating to an enquiry held and inform the Master, the Court and/or any interested party as the Executive may decide, of such enquiry and the result thereof.

16. **ENQUIRY BY DISCIPLINARY SUB-COMMITTEE**

16.1. For the purpose of an enquiry, the Chairman appointed may:-

16.1.1. Summon any member who in its opinion may be able to give material information concerning the subject of the enquiry or who is believed to have in its/his possession or custody or under its/his control any book, document or thing which has any bearing on the subject of the enquiry to appear before it at the time and place specified in the summons, to be interrogated and to produce that book, document, or thing and the Executive may retain for examination any book, document or thing so produced.

16.1.2. Appoint any person to advise the sub-committee at such enquiry on matters pertaining to law, procedure or evidence and appoint such person or another person to act as pro forma prosecutor at such enquiry.

16.2. Issue a summons for the attendance before the sub-committee of any member or for the production of any book, document or thing which shall be in the form prescribed by the Committee, shall be signed by the Chairman of the Committee or a member authorised thereto by it, and shall be served in the same manner as a subpoena in a civil case issued by a Magistrate's Court.

- 16.3. If a member who has been duly summonsed under this section fails, without sufficient cause, to attend at the time and place specified in the summons, or to remain in attendance until excused from further attendance by the Chairman of the committee, or if any member summonsed refuses without cause to answer fully and satisfactorily to the best of its/his knowledge and belief all questions lawfully put to it/him concerning the subject of the enquiry or to produce any book, document or thing in its/his possession or custody or under his control which it/he has been required to produce or to allow the sub-committee to retain for examination any book, document or thing so produced, it/he shall be guilty of unprofessional or unethical conduct, provided that in connection with the interrogation of any such member or the production of any such book, document or thing, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a competent Court of law, shall apply.
- 16.4. A member who gives a false answer to any question, shall be guilty of unprofessional or unethical conduct.
- 16.5. Any member who willfully hinders the Chairman or any member or officer of the Committee in the exercise of any powers conferred upon him by or under this section, shall be guilty of unprofessional or unethical conduct.
- 16.6. Any member whose conduct is being enquired into by the sub-committee shall be informed of the nature of the complaint made against it/him and shall be entitled to

appear by itself/himself or to be represented by some other person/s duly authorised in writing on his/its behalf, and to produce evidence, call and examine witnesses on his/its behalf and cross-examine other witnesses.

17. **SUBSCRIPTIONS, FEES & LEVIES**

- 17.1. Each member, being a corporate and individual member, shall pay to the Association an annual subscription and such fees, levies or other charges at such time and in such amounts as may from time to time be fixed by the Executive.
- 17.2. If any member fails to pay a subscription or any fee, levy or other charge within one month after it has become due, the Treasurer or Chairman shall, by letter, telegram or fax draw his attention to the fact, and if the subscription or fee , levy or other charge in arrears is not paid within 14 days from the date of such notice or within such further time as the Executive may allow, proceedings for the recovery thereof may be taken against him/it.
- 17.3. No member whose annual subscription is in arrears for more than 3 months shall be entitled to be present at any general or special meeting of members or to vote thereat by proxy.

18. **ARTICLED CLERKS AND REGISTER**

Subject to the approval of the members of the Executive given at a General Meeting thereof, the Executive may draft and publish regulations providing for :-

- 18.1. The service under articles of clerkship of any person intending to be admitted as a member and who does not qualify for registration as a practising member in terms of membership criteria provided for herein above:
 - 18.1.1. The period for which such person shall serve under articles of clerkship which period shall be not less than 2 years;
 - 18.1.2. To whom such articulated clerk may be articulated;
 - 18.1.3. Information which is to be submitted to the Executive before the articles of clerkship are entered into including such evidence as may be prescribed by the Executive, that such prospective articulated clerk is a fit and proper person to be registered as an articulated clerk;
 - 18.1.4. The lodging, examination and registration of articles of clerkship;

- 18.1.5. Supervision over articulated clerks;
- 18.1.6. The absence of articulated clerks from the office;
- 18.1.7. The appearance of an articulated clerk before any Board, tribunal or similar institution before which his principal is entitled to appear;
- 18.1.8. The terms and conditions of such articles of clerkship;
- 18.1.9. Cession of articles of clerkship;
- 18.1.10. The termination of articles of clerkship.
- 18.2. Any degrees, diplomas or other qualifications which shall entitle any person to register as an articulated clerk or which will entitle such person to exemption from the requirements to be complied with to be registered as such as well as the fees which will be payable to the Executive in respect of such exemption.
- 18.3. The fees payable for the registration of articles of clerkship;
- 18.4. The date from which these provisions shall come into operation;

18.5. The Executive shall have the power to maintain a register of articled clerks with the intent of promoting and effecting the training of such clerks in business administration and rescue and for such purposes may promote and hold on behalf of the Association examinations and adopt such rules and regulations (including provision for the payment of fees to the Association) as the Executive may in its discretion decide, for the control and administration of such articled clerks.

19. **REMUNERATION**

There shall be payable to a member of the Executive or a sub-committee of the Executive ~~such remuneration for services rendered by him in connection with work of the Executive and~~ such allowances to cover expenses reasonably incurred by him in the performance of his duties as a member of the Executive or such sub-committee as the Executive may from time to time determine.