

**CONSTITUTION**

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**THE INSTITUTION OF MOTOR ASSESSORS OF SOUTH AFRICA  
CONSTITUTION:**

**1. NAME AND STATUS OF THE INSTITUTE:**

- 1.1 The name of the Institute shall be INSTITUTE OF MOTOR ASSESSORS OF SOUTH AFRICA.
- 1.2 The Institute is an independent juristic body, existing separately from its members, and with the capacity to enter into contracts, acquire, hold or alienate property and to sew or be sewed.
- 1.3 The Institute’s registered address is 34 Reid Street, Westdene, Bloemfontein, 9301

**2. THE PROFESSION:**

- 2.1 The profession of Motor Assessors comprises of members who act predominantly on instructions of Insurance Companies and are habitually engaged in a professional capacity in the investigation, management, evaluation and adjustment of losses and claims.

**3. OBJECTIVES OF THE INSTITUTE:**

The objectives of the Institute are to:

- 3.1 Maintain and enhance the dignity, prestige and status of the profession;
- 3.2 Uphold, regulate and control the integrity and preserve the professionalism of motor assessors;
- 3.3 Provide for the effective control of the professional conduct of Motor Assessors;
- 3.4 Promote the skill, efficiency, services, and responsibility of the profession;
- 3.5 Establish and maintain a high standard of education and knowledge;
- 3.6 Represent the views of the profession and to promote the common interest of its members;

- 3.7 Co-operate, liaise with or make representations to such other authorities, corporate bodies or persons as it may deem fit;
- 3.8 Promote, protect and encourage the interest of the public, insurance industry and the members by ensuring that proper standards of services and ethical trading conditions are maintained throughout the motor insurance industry and generally to watch over and protect the general interest of companies, firms and persons engaged in the motor industry of South Africa;
- 3.9 Collect, disseminate or make available to the authorities, to members, the public or any interested person, institution or entity such information or services regarding the profession as may be of assistance or benefit to them;
- 3.10 Enter into and fulfill any arrangement or agreement which may be deemed advisable and/or obtain any rights or privileges which the Institute may deem necessary or desirable to fulfill its objectives;
- 3.11 Join or affiliate with/or become a member of any body or other association or to co-operate with such body or association in order to fulfill its objectives;
- 3.12 Print or publish any promotional item(s) or application(s) that the company may deem desirable;
- 3.13 Educate and provide regular training to its members in order to maintain a high standard of the profession;
- 3.14 Maintain a complete database of all members of the Institute, their qualifications, training, experience and field of expertise in the profession to enable the Institute to provide any person or institution desirous of engaging the services of any member of the Institute with all the necessary information regarding that member;
- 3.15 On request of any person or institution, make recommendations to such person or institution of its members who will be most suitable to comply with the specific request;
- 3.16 Do all such other things constructive to the attainment of the objectives above specified.

The aforesaid objectives may be achieved by applying principles or decisions uniformly or differentially as between members as may be decided by the Institute from time to time, provided, however, that no unreasonable discrimination should occur.

**4. POWERS OF THE INSTITUTE:**

The Institute may for the purpose of achieving its objectives:-

- 4.1 Admit to categories of membership applicants duly qualified or, on good cause, decline applications without having to disclose reasons.
- 4.2 Make rules regarding the proper functioning and achieving of the objectives of the Institute;
- 4.3 Investigate the conduct of and discipline members;
- 4.4 Employ and determine the remuneration and other conditions of service of its officials and employees, which include the appointment of an Administration/Director;
- 4.5 Conclude agreements for the performance of work or the rendering of services;
- 4.6 Determine and levy membership fees;
- 4.7 Provide regular training courses in all relevant fields;
- 4.8 Make and amend By-Laws that will have the same effect as if embodied in the constitution.
- 4.9 Draw up and amend a code of conduct and/or issue guidelines in respect of the constitution and/or By-Laws, to which members must adhere;
- 4.10 Make rulings;
- 4.11 Acts as mediator in regards to any internal grievances or complaints by or against any member;

- 4.12 Establish, promote and/or administer insurance and benefit schemes;
- 4.13 Appoint any person, committee and/or sub-committees to achieve its objectives;
- 4.14 Exercise any such powers as may be necessary to achieve its objects.
- 5. PRESIDENT and/or VICE PRESIDENT:**
- 5.1 The Institute's President and Vice President shall be a voting member, elected at the Annual General Meeting and shall hold office for a period of three years with the option of a further two years of office, subject to a two thirds majority vote of the National Committee and acceptance of the incumbent President and/or Vice President.
- 5.2 He shall vacate office upon his resignation as President or termination of membership or, if the National Committee, convened for the purpose of considering it, suspends him from office for any reason it considers justified. The quorum at such National Committee meeting shall be six, exclusive of the President who shall have no vote. The National Committee shall appoint a President for the remaining period.
- 6. ADMINISTRATOR:**
- 6.1 The Institute's Administrator may be a voting member or non-member, appointed by the National Committee. The functions and responsibilities of the Administrator will be as detailed in the By-Laws and/or in a guide as detailed by the Executive Committee from time to time, annexed to the By-Laws, remuneration and period of appointment as well as termination of any appointment to be regulated in terms of the specific Contract of Employment of the appointed Administrator, as contracted with, by the National Committee.
- 7. COMMITTEES:**
- 7.1 A National Committee shall control and exercise the Institute's affairs and powers.
- 7.2 The National Committee shall comprise of the President, a Vice-President, Administrator and/or Treasurer and all regional chair persons and/or any further co-opted members as appointed by the Executive Committee.
- 7.3 The National Committee shall meet as often as may be deemed necessary but not less than once each calendar year. The President, and in his absence the Vice-President shall preside at the meeting of the Committee and in the absence of both, the members present shall appoint a Chairman for that meeting.
- 7.4 The National Committee shall appoint an Executive Committee consisting of the President, the Vice President, the Administrator and/or Treasurer and not less than three National Committee members.
- 7.5 The Executive Committee shall administer the Institute's affairs as directed by the National Committee.
- 7.6 The Executive Committee may co-opt additional members and shall meet as often as necessary. The President shall preside as Chairperson and, in his absence, the members of the Executive Committee shall appoint a Chairperson.
- 7.7 Except where otherwise provided, all matters shall be decided by a majority of the committees' members present and, in the event of an equality of votes, the Chairperson shall have a casting vote. The quorum throughout a National Committee meeting shall be seven members present and at an Executive Committee meeting, four members present.
- 7.8 A member of the National and/or Executive Committee shall vacate his office if he resigns as Committee Member or ceases to be a Member of the Institute, or if the Committee, convened for the purpose of considering it, suspends him from office for any reason it considers justified. The quorum at such National and/or Executive Committee meeting shall be six and four, exclusive of the member whose suspension is considered and who shall have no vote.
- 7.9 The National and Executive Committees may co-opt a member to fill a vacancy from voting members and serving National Committee members respectively.
- 7.10 The National and Executive Committees may appoint sub-committees and appoint thereto a Chairperson and any person or number of persons.
- 7.11 The National Committee shall exercise jurisdiction over all matters specially reserved to its jurisdiction in terms of this constitution and shall be the sole representatives of the Institute in such matters;
- 7.12 The Executive Committee shall open and maintain an Institute office and shall appoint the official and staff of such office and generally supervise and direct the administration of such Institute office when and if required;
- 7.13 The National Committee shall, subject to the provisions of this constitution have power to:
- 7.14 Institute or defend legal proceedings by or against the Institute or on behalf of or against individual members or officials of this Institute.
- 7.15 Acquire either by purchase, lease or otherwise, any movable or immovable assets on behalf of the Institute and to sell, let mortgage, or otherwise deal with or dispose of any movable or immovable assets belonging to the Institute, provided that no immovable assets shall be acquired or sold or mortgaged or let or leased for a period longer than five years unless at least one month's written notice or intention to do so have been given to each member of the Institute;
- 7.16 Open and operate banking account(s) in the name of the Institute;
- 7.17 Invest funds of the Institute in such a manner as it deems fit;
- 7.18 Enter into such agreement which organization similar in character and purpose to this Institute as it may deem to be in the interest of the members;
- 7.19 By a two-thirds majority to frame By-Laws not inconsistent with this constitution providing for all matters of mutual interest to members. Such By-Laws shall be published to members by circular or in such other matter as the National Committee may determine.
- 7.20 To deal with and decide all matters arising in the affairs of the institute which are not specifically provided for in the constitution or, if provided for, which in the opinion of the National Committee are ambiguous.
- 7.21 The National Committee shall have the right to set down, or amend from time to time, qualifications for admittance into membership and to formulate and/or institute By-Laws or rules governing ethical trading relating to motor assessing.
- 7.22 The National-, Executive- and sub-committees shall keep minutes of all meetings.
- 8. REGIONAL OFFICES:**
- 8.1 The National Committee shall establish Regional branches and such region's members shall annually appoint office bearers and committees to administer the region's affairs in accordance with the Institutes objectives. The branch committees shall liaise with the Executive Committee on matters of importance and, on such matters, it shall act in accordance with the Executive Committee's instructions.
- 8.2 A Regional branch shall comprise of members whose practices are located within the area controlled by the region.
- 8.3 A Regional Committee shall consist of not less than three members that shall include a Chairperson and a Treasurer and shall meet on a regular basis but not less than once every four months. The Chairperson shall present written minutes of the business conducted at the meeting to the Executive Committee.
- 8.4 A regional Committee may determine levies and the Treasurer shall account for expenditure approved by the Regional Committee.
- 8.5 Article 7 of the constitution shall apply mutatis mutandi to the Regional Committee.

## 9. HONORARY MEMBERSHIP:

If, by reason of exceptional services to the Institute and on recommendation of the National Committee, the motion is accepted at a General Meeting, the Institute may confer-

- 9.1 Honorary Membership in respect of Members of the Institute of Motor Assessors of South Africa on whom Honorary Membership has in the past been conferred, while such a Member remains habitually engaged as a Motor Assessor in a motor Assessing practice within South Africa as an active, practicing Motor Assessors, By-Law 2 of the By-Laws of the Institute shall apply mutatis mutandis to such a person; and
- 9.2 Honorary Life membership upon a retired member;
- 9.3 Any person so appointed in terms of Section 9.1 and/or section 9.2 shall remain a member at the discretion of the National Committee as long as he/she is deemed to be fit and proper to hold such title, but shall have no vote in its proceedings.

## 10. MEMBERSHIP:

- 10.1 The Institute shall consist of its present Honorary members, Honorary Life members, and those who may be admitted as members in any of these categories or other categories substituting them or authorized in the constitution.
- 10.2 The Institute shall maintain a register of members.

## 11. ADMISSION OF MEMBERS:

- 11.1 The Executive Committee shall on receipt of an application for membership grant such application if the Committee is satisfied that the applicant meets with the following requirements:
  - 11.1.1 Applied for membership in a category; and
  - 11.1.2 Is, or will, upon a successful application be, habitually engaged as a Motor Assessor in a motor assessing practice within South Africa; and
  - 11.1.3 Is ordinarily resident within the borders of South Africa, either as a citizen or having been lawfully admitted for permanent residence; and
  - 11.1.4 Has satisfied all the requirements of the By-Laws; and
  - 11.1.5 Is not associated with anybody or person whose business is such as to be liable to give rise, or seen to give rise, to a conflict of interest between his/her duties as a Motor Assessors and his/her interest arising from such association; and
  - 11.1.6 Is a fit and proper person to practice as a Motor Assessor
- 11.2 Applications for membership shall be lodged in writing on a prescribed form together with all the required mandatory forms, sample reports and required addendums as per the requests on the application form accompanied by the prescribed entrance/ application fee.
- 11.3 The Administrator shall forward such applications to the Regional Chairperson of the region in which the applicant will be operating. The Regional Chairperson will scrutinize and discuss this application with his Regional Committee and report back to the Administrator within fourteen days from date of receipt from National office in writing. The Administrator shall refer such application, after it was received back from the Regional Chairperson together with comments from the region to the Executive Committee who will further consider the application and make the final decision.
- 11.4 The Executive Committee of the Institute may admit, defer or refuse an applicant to membership. Upon such admission the applicant shall deemed to be a member of the Institute.
- 11.5 A member by admission to membership, contracts to observe the provision of this constitution and of any rules, regulations or resolutions of the Institute, whether conversant therewith or otherwise and in particular undertakes to honor and observe the provisions of any code or agreement formulated by the Institute in relation to trade practices or ethics.

## 12. TERMINATION OF MEMBERSHIP

Membership will terminate upon:

- 12.1 Resignation, by giving one month's notice in writing to the Administrator. A member shall ipso facto retire from membership upon his insolvency or his estate being placed under administration or when the member is involved in another profession other than assessing or where the other profession is in conflict with his bona fide assessing profession; or
  - 12.2 Failing to pay subscriptions and/or levies by end March of the specific year in which the subscriptions and/or levies are due; or
  - 12.3 Ceasing to practice as a Motor Assessors; or
- Ceasing to meet with the requirements of Articles 11.2 and/or 11.3; or
- Expulsion in terms of By-laws 8; or
- Failing to comply with By-Laws 5.5 and/or 5.6; or
- Failing to comply with By-Law 2.3;

When a member ceases to qualify for membership, such membership shall terminate after written notice has been given to the member by the Administrator. Notice for purpose of sub-article shall be deemed to be a period of thirty days.

In the event of insolvency or liquidation or judicial management of a member under "Order of Court", such member shall cease to be a member, but may be re-elected at the discretion of the National Committee on application being made.

## 13. GENERAL MEETINGS:

- 13.1 The National Committee shall convene an Annual General Meeting to be held during March to May of every year at such time, date and place as it may determine. It shall give at least fifteen working days notice to all members and such notice shall contain particulars of matters to be placed before the meeting. The National Committee shall report upon the past financial year and shall present the accounts.
- 13.2 A member wishing to propose any motion at the Annual General Meeting shall give the National Committee timeous notice which notice shall contain full particulars of the motion. A copy of the members' notice and motivation, if any, shall be attached to the notice of the meeting.
- 13.3 At the request of the National or Executive Committees, or of not less than one quarter of members in writing, the National Committee shall convene a Special General Meeting and shall give notice that complies with article 11.1
- 13.4 The quorum at all General Meetings shall be 15 (fifteen) voting members' present. If a quorum is not present, the meeting shall stand adjourned to the corresponding time on the 7<sup>th</sup> (seventh) day thereafter at the same place and voting members then present shall form a quorum.
- 13.5 The President acting as Chairperson, shall preside at General Meetings and in his absence, voting members present shall appoint a Chairperson from members of the National Committee.
- 13.6 Except where herein otherwise provided, all matters discussed or to be voted upon at General Meetings shall be decided by a majority of voting members present, in person or by proxy. In the event of an equality of votes, the Chairperson shall have a casting vote.
- 13.7 If an amendment of a proposal is proposed and seconded by a voting member, the Chairperson shall determine whether or not it constitutes a material variation. If he determines that it is not, it shall be voted upon as an alternative to the original proposal
- 13.8 The invitation to the Annual general Meeting shall be accompanied by a standard proxy form and indicate that in the event that a member shall not be able to attend the AGM and such a member wishes to authorize another member to attend, vote and speak at the AGM on the absent member's behalf, such a proxy should be duly completed and presented at the AGM upon registration, of which the proxy form should comply in accordance with By-Law 12.3
- 13.9 The National Committee shall give at least seven days notice of

a Special General Meeting to all members and such notice shall contain particulars of the urgent matters to be placed before the meeting.

- 13.10 A record of all decisions and resolutions taken at a meeting, and of all appointments made at such meetings, shall be kept together with a record showing the names of those present and such records shall be signed as a correct record or otherwise by the Chairman of the first succeeding National Committee meeting.
- 13.11 All persons present at any meeting shall sign their names in an attendance register, which the Administrator concerned shall provide for this purpose.
- 13.12 In conducting the election of the National Committee members, no "en bloc" nominations shall be accepted. A proposer and seconder for each person nominated will be required.
- 13.13 The National Administrator shall, as soon as practicable but not later than twenty-one days after any meeting transmit to the members' copies of the minutes of any such meeting.

#### 14. AMENDMENTS:

The Constitution, By-Laws or Code of conduct may not be amended and new By-Laws may not be passed except by a two-thirds majority of voting members voting by electronic mail vote and/or by a two-thirds majority of voting members present and/or voting by proxy at an Annual General Meeting or at a Special General Meeting.

#### 15. DISSOLUTION:

The income and property and all assets of the Institute when so ever derived shall be applied solely towards the promotion of the objects of the Institute as set forth in this constitution and no portion thereof shall be paid or transferred directly by way of dividend, bonus or otherwise howsoever, by way of profit to members of the Institute, or to any of them or to any person claiming through any of them, provided that nothing herein contained shall prevent in good faith of remuneration to the officers, officials or servants of the Institute of to any member thereof, or other person in turn for any services actually rendered to the Institute. The Institute may be dissolved at any time provided this is agreed to at a special meeting of the National Committee by two-thirds of the representatives present, such meeting to be called specifically for such purpose and no not less than one months' notice. After the payment of all debts, remaining funds, if any, shall be transferred to some other associates or society as may be determined by not less than two-thirds of the members in good financial standing at the date of dissolution, which shall have similar objects and operate in the motor assessing industry.

#### BY-LAWS OF THE INSTITUTE OF MOTOR ASSESSORS OF SOUTH AFRICA IN TERMS OF ARTICLE 4.8 OF THE CONSTITUTION:

##### 1. APPLICATION FOR MEMBERSHIP:

- 1.1 A once-off administration fee shall be payable upon acceptance of the application for members, in addition to any amount payable by way of annual membership fees.
- 1.2 In respect of the administrative fee tendered with his/her application for membership, a member shall pay his/her annual membership fee admittance and thereafter the annual subscription shall become due and payable on the last day of March each year. Failure to pay such annual subscription will render election to membership void and a new application will be necessary.
- 1.3 A member who resigns or who is expelled from membership shall have no claim on funds of the Institute.

##### MEMBERSHIP QUALIFICATIONS:

###### 2.1 STUDENT:

- 2.1.1 A person will be admitted as a Student Member if he/she is not less than 18 years of age:-
- 2.1.2 Holds a Grade 10 (valid school leaving education certificate) or NTC 1 or equivalent qualification, of any other applicable qualification accepted by this Institute.
- 2.1.3 Is being employed by a firm of Motor Assessors which is active members of the Institute of Motor Assessors of South Africa; or
- 2.1.4 Has been habitually engaged as an in-house Motor Assessor in the short term insurance industry for a period of not less than three full calendar years; or

2.1.5 Has been actively employed in the short term insurance industry as a motor claims handler for a period of not less than 5 full calendar years; or

2.1.6 Has been actively employed in the short term insurance industry for a period of not less than seven full calendar years.

##### 2.2 MEMBER:

- 2.2.1 A person will be admitted as a Member if he/she is not less than 25 years of age:-
- 2.2.2 Holds a Grade 10 (valid school leaving education certificate) or NTC 1 or equivalent qualification, of any other applicable qualification accepted by this Institute.
- 2.2.3 Is being employed or mentored for a at least three full calendar years by a firm of Motor Assessors which is active members of the Institute of Motor Assessors of South Africa; or
- 2.2.4 Provide proof of his/her own business practice as a Motor Assessor.

##### 2.3 RETENTION OF MEMBERSHIP:

- 2.3.1 To retain membership, members shall by March each year obtain the required number of points collated over the immediate prior 12 month period and as determined by the Institute, by completing CPD (continuing professional development) as set out in the Guide issued by the Institute from time to time.
- 2.3.2 To retain their membership, members shall complete and return any requisite renewal and other documents as may be required by the Institute within the relevant time limits.

##### 3. REINSTATEMENT OF FORMER MEMBERS:

A former member shall be exempted from the requirements of by-law 2 and shall, upon his application, be admitted to the membership category he held when his membership was terminated, or the category that replaced such category, provided he/she:

- 3.1 Has not spent more than 5 years since termination of membership outside the practice of Loss adjusting; and
- 3.2 Complies with Article 11 of the Constitution; and
- 3.3 Has not previously been expelled from the Institute.

##### 4. IMA LOGO:

Members of the Institute of Motor Assessors of South Africa are permitted to apply the logo of this Institute to letterheads and/or e-mail signatures and/or business cards.

These guidelines must, however, be followed as a condition of its use.

The logo may be used on any office stationery. The logo may be used in monochrome or colour. If it is in colour, it must be in the Pantone colours, as follows:  
Yellow: Pantone 395 C  
Red: Pantone Warm 1795 C  
Grey: Pantone Cool Grey 8 C

You may not alter the logo in any manner. For example, you may not change the proportion of the logo.

The logo must appear by itself, with reasonable spacing between each side of the log and other graphic or textual elements.

At no time must the use and/or context of the logo bring IMA SA into disrepute. IMA SA will be entitled to instruct a member to remove the logo if, at its absolute discretion, it considers that continued use is prejudicial to the reputation of IMA SA.

Members may only use the logo for as long as they are registered with IMA SA. In the event that them being removed from or suspended as members, for any reason, members must immediately desist from use of the logo.

##### 5. DISCIPLINARY ENQUIRY:

- 5.1 The Institute shall have disciplinary jurisdiction and power over its members, no matter where the alleged conduct is or was committed.

- 5.2 Notwithstanding the provisions of article 12 of the Constitution, if a member's conduct is under investigation or the subject of a hearing or an appeal, a member's resignation will have no force or effect and membership will not otherwise terminate, unless the Executive Committee accepts the resignation or the investigation, hearing and appeal, if any, has been concluded.
- 5.3 The Executive Committee shall inquire into and consider any information to determine whether a member is guilty of unprofessional conduct and/or is not a fit and proper person to practice as a Loss Adjuster and/or is in contravention of the Constitution or the By-Laws.
- 5.4 The Executive Committee shall notify the member, providing him with particulars, and call upon him/her to, in writing and within such time as it may direct and/or appear at such time, date and place as it may determine, provide it with information and an explanation of the matter.
- 5.5 The member shall comply and furnish a full explanation and make a full disclosure of all relevant information which will include access to his files and records. Any admission by the member or information that he provides may be used as evidence at any hearing.
- 5.6 The Executive Committee may call on any member to furnish information regarding another member's conduct and such member shall comply and make a full disclosure within a period of 30 (thirty) days of receiving such a request to furnish information.
- 5.7 If the Executive Committee is of the opinion that the member's conduct does not constitute unprofessional conduct and/or that he is a fit and proper person to practice as a Motor Assessor or that there is no reasonable prospect of proving that he/she is/was guilty of unprofessional conduct, the Executive Committee may decide not to proceed with the matter and shall advise the member and the complainant, if any, accordingly.
- 5.8 If the member admits that he/she is guilty of unprofessional conduct, the Committee may make a finding. If he/she is found guilty, it shall, after affording him the opportunity to make representations or submissions regarding sentence, sentence him in accordance with bylaw 7.1.
- 5.9 If the member admits that he/she is not a fit and proper person to practice as a Motor Assessor, the Committee may make a finding. If it is found that he/she is not a fit and proper person to practice as a Motor Assessor, the Committee shall expel him.
- 5.10 The Executive Committee shall keep record of the proceedings.
- 6. DISCIPLINARY HEARING**
- 6.1 If the provisions of by-laws 5.8 and/or 5.9 are not applicable or if the Executive Committee decides not to implement it and if it is of the opinion that the member is guilty of unprofessional conduct and/or that he/she is not a fit and proper person to practice as a Motor Assessor and/or that the member may have contravened the Constitution or the By-Laws, the matter shall form the subject of a disciplinary hearing to be conducted by a Board of Enquiry (herein referred to as the Board), at which the member may be represented.
- 6.2 The Executive Committee shall appoint a Board of at least three persons, including a chairperson, who by virtue of their profession, education and/or experience will be suited to adjudicate the matter. The Board may co-opt one or more persons and such person will have a vote.
- 6.3 The Executive Committee shall appoint any person (herein referred to as the Appointee) to represent the Institute at a hearing and/or an appeal.
- 6.4 The Appointee shall determine the time, date and place of the hearing and shall notify the member of the purpose of the hearing, particulars of the complaint and the time, date and place of the hearing:
- 6.5 The hearing will be conducted essentially in accordance with the following procedures but the Board may depart there from if it is expedient, justified and reasonable.
- 6.5.1 The chairperson shall read the notice of the hearing and the member, if present, shall indicate his/her plea.
- 6.5.2 The Appointee and then the member shall present evidence. A

witness may be cross-examined, re-examined and questioned by the Board.

- 6.5.3 The Board may call any person whose evidence may be material or re-call a witness.
- 6.5.4 The Appointee may withdraw a charge before a finding has been made.
- 6.5.5 At the conclusion of the member's case, the Board will hear the Appointee's and the member's submissions regarding a finding and shall make a finding.
- 6.5.6 If the member is found guilty of unprofessional conduct, the Appointee and the member may present evidence and make representations, orally or in writing or both, regarding sentence.
- 6.5.7 If the member, personally or in writing, admits that he is guilty of unprofessional conduct and/or that he is not a fit and proper person to practice as a Motor Assessor, the Board may make a finding without hearing any evidence.
- 6.5.8 If the member is not present at a hearing and/or has not responded in terms of by-law 6.5.7, the Board shall note a plea of not guilty.
- 6.5.9 The Appointee shall produce proof of service of the notice and the hearing will continue in the member's absence and without his/her contribution. The Executive Committee shall notify the member of the Board's finding and sentence.

## **7. DISCIPLINARY POWERS**

- 7.1 If a member is found guilty of unprofessional conduct or has been found to be in contravention of the Constitution or the By-Laws, the Board shall impose one or more or any of the following sentences (separately and collectively referred to as the sentence):
- 7.1.1 reprimand him/her;
- 7.1.2 issue a warning;
- 7.1.3 instruct him/her to take certain steps and/or to do certain things, including paying compensation, and/or to refrain from doing certain things.
- 7.1.4 postpone the imposition of a sentence for a period not exceeding one year;
- 7.1.5 suspend the sentence on conditions it deems fit, for a period not exceeding 3 years;
- 7.1.6 impose a fine not exceeding R25 000-00 to be paid to the Institute;
- 7.1.7 suspend his/her membership for a period not exceeding 24 months;
- 7.1.8 Any other sentence that the Board may consider fit.
- 7.2 The Board shall make an appropriate award as to costs.
- 7.3 The Board shall record the proceedings, the reasons for its finding and sentence and forward the record to the Executive Committee.
- 7.4 No sentence shall be enforced within a period of ten working days and, if the member and/or the Appointee appeals, unless the applicant abandons the appeal, until the appeal has been finalised.
- 7.5 If the imposition of a sentence has been postponed or if a sentence has been suspended, and if:
- 7.5.1 at the end of such period, the Executive Committee is satisfied that there is no need to sentence the member or that the member has substantially complied with the conditions of suspension, it shall inform him that no sentence will be imposed or that he complied with the conditions of suspension.
- 7.5.2 the imposition of a sentence has been postponed and the Executive Committee is satisfied that the member should be sentenced, it may refer the matter back to the Board for a sentence to be imposed in accordance with By-Law 7.1.

- 7.5.3 upon enquiry at any stage during the period of suspension of a sentence, which enquiry shall include providing the member the opportunity to make representations, the Executive Committee determines that the conditions were breached, it shall enforce the sentence that was under suspension without having to refer it to a Board.

## 8. EXPULSION

- 8.1 If the Board finds that the member is not a fit and proper person to practice as a Motor Assessor, it shall advise the Executive Committee, who shall, without exercising any discretion, expel the member from the Institute.
- 8.2 A member shall not be expelled within a period of ten working days and, if the member and/or the Appointee appeals, unless the applicant abandons the appeal, until the appeal has been finalised
- 8.3 In the event of the Executive Committee expelling the member, the Institute must remove such member's name from the Register.

## 9. APPEAL

- 9.1 The Institute, represented by its Appointee, may appeal against the Board's finding or sentence and the member may appeal against any finding, sentence or Ruling. The applicant shall notify the Executive Committee of his intention to appeal, which notification shall state whether the appeal is against a finding, sentence or Ruling, within five working days and by lodging with the Executive Committee a notice of appeal, setting out in full the grounds of appeal, within a further fifteen working days. The respondent shall lodge his/her reply to the applicant's notice of appeal with the Executive Committee within fifteen working days.
- 9.2 The Executive Committee may, on good cause, condone a late notification, notice of appeal and the reply
- 9.3 The Executive Committee shall appoint a Board of Appeal comprising of a chairperson and not less than two others, none of whom shall be members of the Institute, who, by virtue of their profession, education and experience, will be suited to adjudicate the matter under consideration.
- 9.4 The Executive Committee shall timeously provide the respective parties and the Board of Appeal with copies of the applicant's grounds of appeal, the respondent's reply and the record of the proceedings referred to in by-law 5.10.
- 9.5 The Board of Appeal shall consider the evidence of record, the applicant's notice of appeal, the respondent's reply and the parties' arguments and shall:
- 9.5.1 Confirm the finding and/or sentence; or
- 9.5.2 Set the finding and/or sentence aside; or
- 9.5.3 If the finding is confirmed but the sentence is set aside, impose in its place a sentence; or
- 9.5.4 If only a finding that has or could result in a member's expulsion is set aside, consider an appropriate sentence and replace a sentence and/or impose such sentence.
- 9.5.5 Make any other order.
- 9.6 The Board of Appeal shall make an appropriate award as to costs.
- 9.7 The Board of Appeal shall record the proceedings and forward it to the Executive Committee.
- 9.8 The Board of Appeal's ruling is final and the matter shall not be subject to any other appeals or motions.

## 10. PROFESSIONAL INDEMNITY INSURANCE

Members are obliged to hold no less than R2 000 000-00 (two million rand) of professional indemnity insurance as the Executive Committee may determine from time to time. Members shall, on the Executive Committee's request, provide proof of cover.

## 11. ADMINISTRATION

- 11.1 The Institute's financial year shall end on 31 March each year.

- 11.2 The National Committee shall determine the location of the offices of the Institute.
- 11.3 The Executive Committee shall maintain and manage banking/savings/investment accounts
- 11.4 Any notice and communication in terms of the Constitution and By-Laws shall be in writing and shall be served personally, at the member's/institute's office, by prepaid registered post or provided that the sender, depending upon the confidentiality of the contents, first liaise with the recipient regarding the mode of communication, by fax or by e-mail. The Institute shall use the information from their records and members shall advise the Institute of any changes.
- 11.5 The National Committee shall keep members informed of all matters of common interest relating to the profession or the Institute.
- 11.6 A member may request the Institute, which shall oblige, to notify some or all members of his views or comments and/or call a vote, including a postal vote, on any matter relating to the profession or the Institute.

## 12. VOTING, PROXY AND POSTAL VOTES:

- 12.1 Voting at Annual General Meetings shall be by poll on a show of hands and shall be in accordance with the procedure set out by the Chairman of the meeting, unless determined otherwise by the Chairman of the meeting.
- 12.2 A members who resign or is expelled or is suspended from membership of the Institute, or become of unsound mind, or is placed under curatorship, or ceases to be in good financial standing or discontinues with the Industries shall not be entitled to vote.
- 12.3 Proxy form shall:
- 12.3.1 be in such form as is approved or accepted by the National Committee;
- 12.3.2 be deposited at the Institutes office before the time appointed for the holding of the Annual General meeting, or presented at the meeting, or resumption of an adjourned General Meeting at which the person named therein proposes to vote;
- 12.3.3 be valid at every resumption of an adjourned meeting to which it relates, unless the contrary is stated thereon;
- 12.3.4 not be used at the resumption of an adjourned general meeting if it could not have been used at the Annual General Meeting from which it was adjourned, for any reason other than that it was not lodged timeously for the meeting from which the adjourned took place;
- 12.3.5 not be valid after the expiry of two months after the date when it was signed, unless it specifically provides otherwise.
- 12.3.6 a vote or act done in accordance with the terms of a proxy form shall be deemed to be valid notwithstanding
- 12.3.7 the previous death, insanity, or any other legal disability of the person appointing the proxy, or
- 12.3.8 the revocation of the proxy subsequent to the vote cast,
- 12.3.9 unless notice as to any of the above-mentioned matters shall have been received by the Committee at the office or by the Chairman of the meeting at the place of the Annual General Meeting not held at the office, before the commencement of resumption (if adjourned) of the Annual General Meeting at which the vote was cast of the act was done of before the poll on which the vote was cast.
- 12.4 The Executive Committee may call for a postal vote on any matter that requires member's consent by voting unless such matter shall only be decided upon at a General Meeting.
- 12.2 The Executive Committee calling for a postal vote, shall give all members at least fifteen working days' notice which shall contain

particulars of the proposal and alternatives to be voted on, the motivation, if any, the closing time and date.

- 12.3 Voting member's response shall be in a format, prescribed by the Executive Committee, that shall identify each proposal, and members may vote on some or all of the proposals.
- 12.4 If less than 50% of voting members cast a vote, the result shall have no force and effect. The Executive Committee may call for a second postal vote on the same matter within fifteen working days of the closing date and the votes then cast shall determine the result.
- 12.5 The Executive Committee may not call for a further vote on the same subject matter within three months.

### 13. PROFESSIONAL FEES

In addition to recovering expenses necessarily incurred and to afford a member reasonable and proper remuneration for services rendered, a member shall charge a professional fee commensurate with:

- 13.1 The volume, urgency and importance of the work;
- 13.2 The complexity of the matter or difficulty or uniqueness of the work;
- 13.3 The skill, effort, specialised knowledge and responsibility involved;
- 13.4 The number, importance and complexity of documents prepared or perused;
- 13.5 The place where and circumstances in which the services were rendered;
- 13.6 The time expended;
- 13.7 The amount of money or value of property involved;
- 13.8 The importance of the matter to the client;
- 13.9 The quality of the work done;
- 13.10 The experience, qualifications and seniority of the member.

### 14. RULINGS

- 14.1 The Executive Committee may, with regard to any aspect relating to a member's conduct, or that of his practice, that may reflect on the member's, the profession's or Institute's dignity, prestige or status, or his breach of the Constitution and/or By-Laws, after hearing such member's views and submissions, make a Ruling on the matter.
- 14.2 By-Laws 5.4, 5.5 and 5.6 shall apply.
- 14.3 The Executive Committee shall keep record of the proceedings.
- 14.4 The member shall comply with the Ruling unless it is the subject of an appeal.

### 15. FINANCES:

- 15.1 The funds of the Institute shall be applied to the payment of the administrative expenses of the Institute and to any other purpose specified in this constitution.
- 15.2 All moneys received by the Institute shall be deposited in the bank account of the company.
- 15.3 The financial year of the Institute shall commence on the first day of March of each year and shall end of the last day of February the following year.
- 15.4 The books and accounts of the company shall be audited at least once a year by an auditor appointed by the Executive Committee in accordance with general accounting practice. No later than March of each year the national Administrator shall forward to the Institutes balance sheets as at the end of February of that year, and a revenue and expenditure account, covering the current financial year.
- 15.5 The auditor appointed shall be instructed to have regard to the documents referred to in this article to prepare a report stating whether:-

- 15.5.1 they have satisfied themselves of the existence of the securities and have examined the books of account and records of organization;
- 15.5.2 proper books of account have been kept;
- 15.5.3 they have obtained all the information and explanations required;
- 15.5.4 in their opinion the statement of income and expenditure and the balance sheet audited by them have been properly drawn up so as to exhibit a true and correct reflection of the state of affairs of the organization according to the best of their knowledge and according to the explanations given to them and as shown by the books of the Institute as at the date of the balance sheet;
- 15.5.5 in their opinion, the provisions of the constitution of the Institute insofar they relate to financial affairs, have been complied with;

16.6 The statements and report referred to in paragraph 16.4 of this article shall on completion be made available to the members at the Annual General meeting.

16.7 A member may be suspended, fined or expelled by the Institute Committee if he/she fail within seven days of demand in writing by the Administrator to pay subscriptions, fines or levies which are more than three months in arrears.

### 15. ENTRANCE AND SUBSCRIPTION FEES:

- 15.1 A once-off administration fee shall be payable upon acceptance of the application for membership, in addition to any amount payable by way of annual membership fees.
- 15.2 In respect of the administrative fee tendered with his/her application for membership, a member shall pay his/her annual membership fee admittance and thereafter the annual subscription shall become due and payable on the last day of March each year. Failure to pay such annual subscription will render election to membership void and a new application will be necessary.
- 15.3 A member who resigns or who is expelled from membership shall have no claim on the funds of the Institute.

### 16. PUBLICITY

A member may publicise to bring his name or the name of his firm to the attention of anybody or person and may communicate information on services, fee rates, qualifications, expertise and skills and may make it clear that he seeks custom. Publicity must be with due regard to the dignity, prestige and status of the profession. It must be in good taste both as to content and presentation and shall conform with the accepted norms of legality, decency, modesty and truthfulness.

### 17. DEFINITIONS AND INTERPRETATIONS

Unless the context indicates otherwise:

A definition and/or an interpretation in the Constitution will apply to the By-Laws, and visa versa.

The singular will include the plural and the masculine will include the feminine, and visa versa.

"**article**" means the Constitution's articles.

"**body**" and/or "**person**" and/or "**body or person**" means and include a person, authority, firm, society and a legal entity.

"**Code of Conduct**" – any reference to Code of Conduct will also include reference to the Code of Ethics.

"**Fit and Proper**" means a person who is honest and has integrity.

In determining whether a person is honest and has integrity, the National Committee may refer to any information in possession of the Institute or brought to the Institute's attention.

Any of the following factors constitutes prima facie evidence that a person does not qualify in terms of the honesty and integrity requirement, namely that the person –

- a) has within a period of five years preceding the date of application

been found guilty in any civil or criminal proceedings by a court of law (whether in the Republic or elsewhere) of having acted fraudulently, dishonestly, unprofessionally, dishonourably or in breach of fiduciary duty;

- b) has within a period of five years preceding the date of application been found guilty by any professional or financial services industry body (whether in the Republic or elsewhere) recognised by the Institute, of an act or dishonesty, negligence, incompetence or mismanagement, sufficiently serious to impugn the honesty and integrity of the person;
- c) has within a period of five years preceding the date of application of membership to the Institute, been denied any membership of anybody referred to in subparagraph (b) on account of an act of dishonesty, negligence, incompetence or mismanagement, sufficiently serious to impugn the honesty and integrity of the applicant;
- d) has at any time prior to the date of application of membership of the Institute been disqualified or prohibited by any court of law (whether in the Republic or elsewhere) from taking part in the management of any company or other statutorily created, recognised or regulated body, except if such disqualification has since been lifted.

Any applicant for membership of the Institute, on any level of membership, must in the application be candid and accurate and must of own accord disclose all facts or information at the disposal of, or which may be accessible to the applicant, and which may be relevant for purposes of a decision by the National Committee that the applicant complies or does not comply with the "fit and proper" requirement.

**"Habitually"** means, in respect of the assessing practice, that the individual member must usually, frequently, routinely and regularly be engaged in a professional capacity in the investigation, project management, evaluation and adjustment of losses and claims.

**"Insurance office"** may, inter alia, include Insurers, Underwriters, Re-Insurers, Insurance Brokers, Insurance Claims Managers and Insurance Fund Administrators.

**"Motor Assessor practice"** means a firm or practice, including a sole proprietor, partnership or any other legal entity, that practices within the Territory, with the exclusion of any other business, the profession of assessing as it is commonly understood and accepted and that earns its main income from professional fees.

**"Predominantly"** means, in respect of the assessing practice that the individual member must in the main act on instructions of Insurance offices and must derive his professional income primarily and for the most part from his assessing endeavours.

**"stationery"** means advertisements, brochures, letterheads, business cards and any other stationery as may be customary.

**"unprofessional conduct"** means and includes, without restricting the generality of the term dishonourable or unworthy conduct or conduct unbecoming the profession of Motor Assessors.

**"voting member"** means Honorary Members, but only such Honorary Members who also are habitually engaged as an independent Motor Assessor in an assessing practice within the Territory, current Members.

**"working day"** means any day with the exclusion of a Saturday, Sunday and public holiday.

**"Continuous professional development or CPD"** means a process of learning and development, with the aim to enable the member to maintain capabilities to perform competently within his appointed level of membership in the Institute;

**"CPD programmes or activities"** means industry or professional conferences, seminars, workshops, financial services specific or professional qualifications, structured self-study programmes, product seminars, meetings, annual subscription fees, attendance at industry road shows and industry training, subject to approval by the Institute;

**"Professional skills"** means the various types of abilities required to apply professional knowledge and professional values, ethics, and attitudes appropriately and effectively in a professional context, including, technical and functional skills, organisational and business management skills, personal, interpersonal and communication skills, as well as intellectual skills;

**"Professional knowledge"** means such topics that make up subjects

related to the financial services industry as well as other related business disciplines that, together, constitute the essential body of knowledge of professionals in the motor assessing industry;

**"change"** means a change of conduct deserving of sanction which shall be brought against, any member;

**"Committee"** means the National Committee, Executive Committee and Regional Committees;

**"complaint"** means any person who lodges a complaint against a member;

**"complaint"** means a complainant concerning the conduct deserving of sanction against any member, acting in his or her capacity as such;

**"Disciplinary Committee"** means a committee appointed by the Executive Committee to serve as the disciplinary committee in any Disciplinary proceedings;

**"inquiry"** means an inquiry conducted by the committee;

**"penalty"** means any action contemplated;

**"Prosecutor"** means the person appointed or designated;

**"respondent"** means a member against whom a complaint or a charge has been laid;

### **THE INSTITUTE OF MOTOR ASSESSORS OF SOUTH AFRICA CODE OF CONDUCT IN TERMS OF ARTICLE 4.9 OF THE CONSTITUTION.**

- 1. In view of the great degree of responsibility of the Assessor's work only the highest standards of professional skill and etiquette are regarded as good enough or the profession.**
- 2. The relationship between the Assessor and his Principal(s) is one of trust and confidence calling the highest degree of good faith in all transactions.**
- 3. He must, at all times, preserve, impartiality and integrity and shall so act as to promote public confidence in the Profession through conscientious and fair dealing.**
- 4. An Assessor shall not attempt any advantage in the conduct of his profession otherwise than through his professional ability.**
- 5. Members are prohibited from offering and or receiving incentives to any person or organization, as an inducement to obtain work or to create financial benefit.**
- 6. Should an Assessor be appointed to act for a Principle whose interest may conflict, the Member must disclose his position to the parties concerned and act in accordance with their wishes.**
- 7. A Member submits to the authority vested in the National Committee in all matters pertaining to disciplinary procedures.**