

CONSTITUTION
OF THE
REGULATORS' FORUM

PREAMBLE

WE, the statutory regulatory authorities of South Africa,
RECOGNISING –

- that the South African regulatory framework is fragmented and often contradictory;
- that commonalities, similarities and synergies exist in regulating across different sectors;
- that co-operation among regulatory authorities can bring benefits to each regulatory authority;
- that a more integrated regulatory framework is necessary;

TAKING INTO CONSIDERATION the outcome of meetings held by our representatives to discuss the establishment of a Regulators' Forum, and

DETERMINED to establish a consultative and collaborative body in order to facilitate the development of a coherent and consistent regulatory system in South Africa.

We therefore, through our duly authorised representatives **ADOPT** this Constitution.

ARTICLE 1 – DEFINITIONS

In this Constitution unless the context indicates otherwise –

Chairperson

- means the person elected in terms of Article 7.2

Executive Secretary

- means the person elected in terms of Article 7.3

Meeting

- means the Annual General Meeting of the Plenary, the General Meeting or a Special Meeting of the Plenary

Member

- means a Regulatory Authority which is a signatory to this document.

Parliament

- means the national legislature of the Republic of South Africa

Plenary

- means the highest decision making authority of the Regulators' Forum as established in terms of Article 7.2

Regulatory Authority

- means an entity established in terms of national or provincial legislation responsible for regulating an industry, activities in or sector of an industry.

Regulators' Forum or Forum

- means the South African Regulators' Forum established in terms of this Constitution.

Secretariat

- means the Member elected by the Plenary in terms of Article 7.3

ARTICLE 2 – GUIDING PRINCIPLES

For the purpose of implementing this Constitution the Members recognise that:

- (i) there is a need for interaction and co-operation among regulatory authorities in South Africa;
- (ii) such interaction is in line with international best practice in which regulatory authorities agree to co-operate with each other across industries and/or sectors in the interest of consumers;
- (iii) there are benefits arising from co-operation between regulators such as information sharing, capacity building, better utilisation of resources for common regulatory development, harmonisation of regulatory practices and procedures, and the promotion of the identity of regulators as decision makers in South Africa;
- (iv) the co-operation of regulatory authorities is essential for the harmonisation of government policies and legislation in respect of the sectors over which they regulate; and
- (v) the co-operation envisaged shall not in any way limit or constrain the mandate or operations of individual regulatory authorities as provided for in their various Acts.

ARTICLE 3 – ESTABLISHMENT OF THE FORUM

The Regulators' Forum is hereby established in accordance with the terms of this constitution.

ARTICLE 4 – OBJECTIVES OF THE FORUM

The objectives of the Forum shall be:

- 4.1 To promote and facilitate the flow and exchange of information and the application of common and consistent decision-making practices and procedures among regulatory authorities.
- 4.2 To foster an understanding of the roles and activities of the respective Members.
- 4.3 To avoid duplication of functions, activities and resources of the respective Members.
- 4.4 To promote the harmonisation of regulatory policies and legislation across different industries and/or sectors and to standardise regulatory policies, practices and procedures of the Members.
- 4.5 To establish sound relationships among Members, national and provincial government, the public and other stakeholders.
- 4.6 To advance the common interests of Members.

ARTICLE 5 – FUNCTIONS OF THE FORUM

In order to achieve the objectives outlined in Article 4, the functions of the Forum shall include the following –

- 5.1 To monitor and evaluate regulatory practices among Members in order to determine training needs;
- 5.2 To develop, conduct and manage information and capacity-building programs;
- 5.3 To promote and support the establishment of regulatory authorities in sectors where there is a need;
- 5.4 To source funding to achieve the objectives of the Forum;

- 5.5 To promote coherent and consistent regulatory policies, legislation and regulations, where applicable;
- 5.6 To promote research and prepare position papers on key aspects of regulation, including but not limited to examination of policies, strategies and legislation in the sectors in comparison with international trends and best practices;
- 5.7 To require Members to provide information as may be reasonably required to facilitate the co-ordination of regulatory practices and procedures;
- 5.8 To investigate and deliberate on issues which impact negatively on the development of common regulatory policies and procedures;
- 5.9 To promote working relationships with other national and international agencies that have similar objectives of the Members of the Forum on regulation and related matters.

ARTICLE 6 – MEMBERSHIP OF THE FORUM

- 6.1 Membership of the Forum shall be voluntary and open to statutory regulatory authorities responsible for the regulation of a particular industry or a sector thereof in South Africa.
- 6.2 Each statutory regulatory authority is entitled to a single membership.
- 6.3 Each Member shall be represented by two senior officials, preferably the Head or Chairperson of the Member and one other person, duly mandated by the Member to make decisions on behalf of that Member at the Forum meeting. The Head or Chairperson of each Member shall delegate and submit to Plenary the names of two representatives of a Member who shall represent the Head or Chairperson at meetings during his or her absence.
- 6.4 Every Member may be required to pay an annual subscription fee as may be determined by the Plenary at the Annual General Meeting.

- 6.5 Any Member who is in arrears with payment of contributions for the previous financial year shall be deprived of the right to participate in Meetings or to present candidates for any position in any of the organs of the Forum.
- 6.6 New membership shall be permitted at any time by application to the Plenary, with notification thereof being circulated to all existing members.
- 6.7 In the case of a Member admitted to membership under Article 6.6 of this Constitution, such membership shall come into force on the date of the approval of its application by a General meeting, or by a resolution of Plenary.
- 6.8 Membership shall be approved by the Plenary at the meeting following the receipt of the application. Confirmation of membership status shall be communicated to the applicant by the Secretariat within one month of approval by the Plenary Meeting.
- 6.9 Members may terminate their membership from the Forum by giving a month's notice to the Chairperson, who shall notify the Plenary at the meeting.

ARTICLE 7 – STRUCTURE OF THE FORUM

7.1 The organs of the Forum shall be –

- (i) the Plenary; and
- (ii) the Secretariat;

7.2 The Plenary

7.2.1 There shall be a Plenary, which shall be composed of all the Members of the Forum.

7.2.2 Chairperson and Deputy Chairperson

7.2.2.1 The Plenary shall elect a Chairperson and a deputy Chairperson for a one year term of office.

7.2.2.2 The term of office, shall be reviewed by the Plenary on an annual basis.

7.2.2.3 The Chairperson shall preside over the meetings of the Plenary.

7.2.2.4 In the absence of the Chairperson from any meeting, the deputy Chairperson shall chair such meeting.

7.2.2.5 Should both be absent the Plenary shall appoint a Chairperson for that particular meeting at the direction of the Members present at the meeting.

7.2.4 The Chairpersonship of the Forum shall rotate among Members in order to give each Member the opportunity to preside over the Forum for a term of office.

7.2.5 The Plenary is the highest decision making authority of the Forum.

7.3 The Secretariat

7.3.1 The Secretariat shall be elected by the Plenary.

7.3.2 The Member elected as Secretariat shall be responsible for meeting the costs of the Secretariat.

7.3.3 The Secretariat shall consist of an Executive Secretary and other staff as may be determined by the Plenary.

7.3.4 The Executive Secretary shall be appointed by the Chairperson, in consultation with the Secretariat and shall be the Head of the Secretariat.

7.3.5 The Executive Secretary shall report to the Chairperson.

7.3.6 The duties of the Secretariat shall be to –

- (i) Organise and arrange all meetings of the Forum, provided that all notices shall be issued by the Executive Secretary in consultation with the Chairperson;
- (ii) Attend and provide logistical support to all meetings of the Forum, which shall include preparation and distribution of agenda, notice of a meeting, taking and circulating minutes, and circulating any other documents;
- (iii) Collect and process statistical data of the Member organisations;
- (iv) Prepare and/or collate position papers;
- (v) Obtain and circulate information that will facilitate the achievement of the objectives of the Forum as directed by Plenary; and
- (vi) Monitor the development of the objectives of the Forum on a continuous basis.

7.3.7 The Secretariat shall be responsible for the development and amendment of a set of rules that will govern the operation of the Forum in accordance with Article 12.

ARTICLE 8 – FUNDING ARRANGEMENTS OF THE FORUM

- 8.1 Members shall be responsible for their own costs of membership to the Forum.
- 8.2 The expenses of the Secretariat shall be borne by the Member elected as the Secretariat of the Forum.
- 8.3 The financial year of the Forum shall be 1 April to 31 March the following year.
- 8.4 The Secretariat shall, before every Annual General Meeting of the Plenary prepare -

- (i) a budget showing the recurrent costs of the Forum together with any identified capital expenditure for the following financial year;
- (ii) the contribution contemplated, to be raised from each Member for review and approval by the Plenary.

8.5 Each Member shall remit to the Secretariat its contribution, if any, for the current financial year in the manner prescribed by the Plenary.

8.6 The management of funds of the Forum shall be in accordance with the rules set by the Plenary.

8.7 The financial sources of the Forum may consist of:

- (i) Annual contributions by Members;
- (ii) Special contributions by Members; and
- (iii) Any other sources as may be approved by the Plenary.

ARTICLE 9 – MEETINGS OF THE FORUM

9.1 Annual General Meetings

9.1.1 The Forum shall hold an Annual General Meeting on a date to be determined by the Secretariat in consultation with Plenary.

9.1.2 The Annual General Meeting shall be held to review the annual report of the activities of the Forum, the effectiveness of the Forum as well as the business plan for the subsequent year's activities submitted by the Chairperson.

9.2 General Meetings

9.2.1 The Forum shall hold a General Meeting quarterly at the date determined by the Executive Secretary in consultation with the Chairperson;

9.2.2 Such General Meeting shall be held to review the activities and the action plan of the Forum, and to update Members regarding developments from time to time.

9.3 Special General Meetings

9.3.1 The Forum may hold a Special Plenary Meeting at the instance of the Chairperson or whenever requested by at least half of the Members.

9.3.2 A month's written notice shall be given for such a meeting.

9.4 Venue of the Meetings

9.4.1 The venue of meetings shall be determined according to the principle of rotating meetings among Members in alphabetical order.

9.5 Expenses of Attending Meetings

9.5.1 The expenses of attending meetings shall be borne by individual Members.

9.6 Quorum

9.6.1 The quorum for any meeting shall be two-thirds of the Members.

9.7 Voting

9.7.1 Unless otherwise specified in the Constitution –

9.7.1.1 Each Member shall have one vote at any meeting;

9.7.1.2 Subject to the other provisions of this Constitution, all decisions shall be taken by a simple majority of Members present.

9.7.1.3 The Chairperson shall have a casting or additional vote.

9.8 Observers

9.8.1 Observers may, with the consent of Plenary, attend any Meeting of the Forum.

9.8.2 Observers may be permitted to participate in the meeting but shall not have any voting rights.

9.8.3 Any person wishing to be an observer in any of the Meetings of the Forum shall send prior notification to the Secretariat.

ARTICLE 10 – RESIDUAL POWERS OF THE FORUM

All powers not specifically provided for in this Constitution, shall be exercised by the Plenary.

ARTICLE 11 – SANCTIONS

11.1 Sanctions may be imposed against any Member for breach of any of its obligations or responsibilities in terms of this Constitution, or that acts in a manner that is deemed to be detrimental to the objectives of the Forum.

11.2 The nature and extent of sanctions to be applied shall be determined at a General Meeting or Special Plenary Meeting on a case-by-case basis.

ARTICLE 12 – OPERATION OF THE FORUM

12.1 Plenary shall develop and adopt a set of Rules that will provide procedures and guidelines in terms of which the Forum will operate.

12.2 The Secretariat shall be responsible for developing such Rules, which shall be approved by the Plenary before coming into force.

12.3 The Secretariat shall circulate the Rules to all Members within a month after approval thereof by the Plenary.

12.4 The Secretariat shall be responsible for making amendments to the Rules, provided that such amendments are circulated to Members one month prior to their approval by the Plenary.

ARTICLE 13 – ENTRY INTO FORCE

This Constitution shall enter into force on the date of its signature by more than one half of the Members.

ARTICLE 14 - DEPOSITORY

This Constitution shall be deposited with the Secretariat, who shall transmit certified signed copies of all Members.

ARTICLE 15 – DISSOLUTION OF THE FORUM

15.1 The Forum may be dissolved by a resolution taken at an Annual General Meeting by a three-quarters majority of Members.

ARTICLE 16 – INDEMNITY

16.1 Every Member or person acting on behalf of the Forum shall be indemnified by the Forum against any liability incurred in the *bona fide* exercise of his or her functions.

ARTICLE 17 – AMENDMENTS TO THE CONSTITUTION

17.1 This Constitution may be amended at a Plenary Meeting, provided that a notice for such amendment shall have been issued to each Member three months prior to the date of the Meeting.

17.2 An amendment shall be implemented if approved at a Plenary Meeting by a two-thirds majority of the Members.

ARTICLE 18 – INTERPRETATION OF THE CONSTITUTION

The decision of a Plenary Meeting shall be final in the interpretation of this Constitution.

ARTICLE 19 – SETTLEMENT OF DISPUTES

Any dispute arising from the application of this Constitution, which cannot be settled amicably, shall be referred to a Plenary Meeting.