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## BOARD NOTICES RAADSKENNISGEWINGS

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### BOARD NOTICE 149 OF 2009

#### Engineering Council of South Africa (ECSA)

### APPEALS AGAINST DECISIONS OF ECSA

The Engineering Council of South Africa, hereby makes known that, in terms of Section 36(3) of the Engineering Profession Act, 2000 (Act No. 46 of 2000), it has amended the Rules as set out in the Schedule regarding procedures for appeal against decision of the Council referred to in Section 24 of the Act, as set out in the Schedule to this notice.

#### SCHEDULE

##### Definitions

1. In these rules, unless the context otherwise indicates –
  - (i) "Act" means the Engineering Profession Act, 2000;
  - (ii) "appeal committee" means a committee constituted in terms of rule 6;
  - (iii) "appellant" means an applicant contemplated in section 24(1) of the Act;
  - (iv) "chief executive officer" means the person appointed as chief executive officer under section 8(1)(a) of the Act;
  - (v) "Council" means the Engineering Council of South Africa established by section 2 of the Act.

##### Lodging of an Appeal

2. An appellant who intends to lodge an appeal in terms of section 24(1) of the Act, must do so within 30 days from the date on which the refusal to register him or her, or the cancellation of his or her registration, came to his or her knowledge, by lodging the appeal in the manner prescribed by these rules with the chief executive officer and paying the prescribed fee.
3. Such appeal must be in writing and must set out the grounds for the appeal and all relevant arguments, information and documentation in support thereof;
4. The chief executive officer may grant extension of time for the lodging of an appeal for reasons that he/she deems sufficient.
5. The chief executive officer must, within 14 days after receipt of the appeal and the prescribed fee, submit the appeal, together with all documentation lodged with the appeal, to the relevant committee from which the first recommendation to refuse an application, or the decision to cancel the registration emanated, and request such committee to examine the grounds for the appeal and furnish its comments to the chief executive officer within 21 days after receipt of the request from the chief executive officer.

### **Appointment of Appeal Committee**

6. The chief executive officer must appoint an appeal committee, consisting of no more than 4 members, from a panel of persons approved by the Council. These persons must be appropriately qualified to hear the particular case under appeal, and no member of the appeal committee so appointed may be a member of the committee from which the original decision emanated.
7. The chief executive officer must designate the chairperson from the members of the appeal committee.

### **Hearing of an Appeal**

8. After receipt of the comments of the committee referred to in rule 5, the chief executive officer must without delay submit the appeal in question, together with all supporting documentation, as well as such comments to the appeal committee for consideration, and at the same time determine, in consultation with the members of the appeal committee, a date and venue for considering the appeal.
9. The appeal committee must invite the appellant to present his or her case and may call on a representative of the committee referred to in rule 5 to present the views of that committee.
10. The appeal committee must consider all evidence so presented and come to a decision by majority vote, which decision shall have the status of a recommendation. If there is an equality of votes the chairman has a casting vote.
11.
  - (1) The chief executive officer must, without delay, submit the recommendation of the appeal committee to the Council for decision at its next scheduled meeting.
  - (2) If such meeting is not scheduled to take place within 60 days of receipt of the appeal, the chief executive officer must, in consultation with the president of the Council, convene a special meeting of the Council as soon as is practicable.
12. The Council may, in terms of section 24(2) of the Act, confirm, vary or revoke the recommendation of the appeal committee, or come to its own decision. The chief executive officer must notify the appellant of its decision and provide him or her with adequate reasons for its decision.
13. Any member of Council who was a member of the committee that made the decision being appealed may not vote on the appeal in Council.
14. The notification referred to in paragraph 12 must contain an advice to the appellant that he or she may appeal against the decision to the Council for the Built Environment in terms of section 21 of the Council for the Built Environment Act, 2000.