

SOUTHERN AFRICA REVENUE PROTECTION ASSOCIATION



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THE SOUTHERN AFRICA REVENUE PROTECTION **ASSOCIATION**

CONSTITUTION

1. PREAMBLE

This Constitution is the Constitution of the Southern Africa Revenue Protection Association until amended by the Members of the **Association** in a General Meeting of Members and replaces all previous Constitutions of the **Association**.

2. DEFINITIONS

- The Association:** The Southern Africa Revenue Protection Association with the acronym - SARPA.
- Services:** The provision or reticulation of electricity, water, sewerage, telecommunication and other **services**.
- Utilities:** Organisations, including government and local government structures, involved in the delivery of **services** to the public.
- Related Organisations:** Organisations or persons with a commercial interest in promoting the **main object** of the **Association** but who are not **Utilities**.
- Convention:** General **Convention** of Members of the **Association**.
- Branches:** Regional Substructures of the **Association**.

3. LEGAL STANDING OF THE ASSOCIATION

- 3.1.** The **Association** is a voluntary **Association** with perpetual succession.
- 3.2.** The **Association** does not aim at any profit seeking or any other pecuniary benefit for its Members.
- 3.3.** The **Association** shall be capable, in its own name and independently of its Members, of suing and being sued, and of purchasing or otherwise acquiring, holding, managing and disposing of movable and immovable property, or any interest or right therein.
- 3.4.** No member shall by virtue of his Membership have any proprietary right, title or claim to, or interest in, any property of the **Association**.
- 3.5.** The liability of any member of the **Association** for any obligation of the **Association** shall be limited to the Membership fees payable by him in a single year.

- 3.6.** The income and property of the **Association** must be applied solely towards the promotion of its **main object**. No portion of it may be paid, or directly or indirectly transferred by any means to its Members, provided the foregoing may not prevent the payment in good faith of reasonable remuneration to any officer, servant or member of the **Association**, in return for services actually rendered to the **Association**.
- 3.7.** Upon dissolution, any surplus of assets over liabilities must be given or transferred to some other institution or organisation having objects similar to the main object of the **Association**. The **Association** may be dissolved if 75% of the Members in good standing, by secret or postal or fax vote, agree to such dissolution.

4. MAIN OBJECT OF THE ASSOCIATION

- 4.1.** The **main object** of the **Association** shall be to promote the exchange of information and ideas between **Utilities** and between **Utilities** and **related organisations** on the art of protecting revenue and assets accruing to or owned by **Utilities**, against loss, misappropriation, and pilfering or willful malicious damage.
- 4.2.** Ancillary to the **main object** of the **Association** shall be the creation and maintenance of forums in South Africa and elsewhere in Africa where **Utilities** and **Related Organisations** can confidentially discuss or exchange information that is essential to the **main object** of the **Association**.

5. GEOGRAPHICAL SCOPE OF THE ASSOCIATION

The **Association** shall be governed by the laws of the Republic of South Africa but may conduct its activities anywhere in Africa.

6. MEMBERSHIP

- 6.1.** Membership shall be restricted to **Utilities**, persons and organisations with an interest or stake in the **main object** of the **Association**.
- 6.2.** A **utility** or **related organisation** may register as many of its divisions or sub structures or branches as Members as it may want to, provided that a Membership fee is paid for each such Membership registration.
- 6.3.** In pursuit of the **ancillary object** of the **Association**, only Members of the **Association** shall be allowed to attend Meetings of the **Association**. This shall not apply to speakers invited to address meetings of the **Association** or meetings specifically identified as open meetings, by the Executive Council.
- 6.4.** Membership applications shall be in writing delivered to the Secretariat of the **Association** and shall be subject to the approval of the Executive Council of the **Association**.

6.5. Membership fees

Membership of the **Association** shall be subject to the payment of an annual Membership fee determined by the Executive Council. Membership fees shall be the same for all Members in the same category of Membership. Membership of the **Association** shall lapse each year on the last day of February if membership fees are unpaid and shall only be renewed on receipt of payment of the prescribed Membership fee.

7. MEMBERSHIP CATEGORIES

Utility Members:

Utilities represented by a person duly authorised as representative of the **utility**.

Affiliate Members:

Related Organisation, represented by a person duly authorised to represent such a **related organisation**.

Associate Members:

Persons in the employ of a **Utility** Members or **Affiliate** Members, who are not representing such utility or **Affiliate Member**, but who wish to participate in the activities of the **Association** and who are recommended by such **Utility** or **Affiliate Member** organisation to become an **Associate Member** of the **Association**.

Honorary Members:

Any person, who in the opinion of the Executive Council, has contributed significantly and beyond the normal call of duty, to furthering the **main object** of the **Association**.

8. CONTROL AND MANAGEMENT OF THE ASSOCIATION

The **Association** shall be controlled and managed by an Executive Council. The executive officers of the **Association** shall be a President and President Elect, assisted by a Secretariat.

8.1. Convention of Members

A general **Convention** of Members shall be held at least once per calendar year.

Notice for the holding of such a **Convention** shall be given by the Secretariat to Members no less than 60 days before any **Convention**.

The President and in his absence the President Elect, shall be the Chairman of the **Convention**. The **Convention** shall have the right to elect a President Elect, and to amend the Constitution of the **Association**. Nominations for the positions of President Elect shall be in writing to the General Secretary at least 60 days prior to a **Convention** and shall bear a signature of the nominator, a second as well as the signature of the nominee. Any **Utility Member** representative may nominate any other **Utility Member** representative for election as President Elect.

All voting shall be by secret ballot and a normal majority shall prevail in all instances. The President shall have a casting ballot. In circumstances where a **Convention** cannot be called, the Executive Council shall have the right to call for a postal or fax vote on matters that the **Convention** would normally vote on. Postal or fax voting shall be subject to a two-thirds majority for a motion to be carried.

Thirty percent of Members present at any properly constituted **Convention** shall be a quorum.

Only **Utility** Members shall have the right to vote at a **Convention**.

8.2. Executive Council

The Executive Council shall direct the activities of the **Association** and shall have the right to bind the **Association** in contract. The Executive Council shall appoint a General Secretary and an Auditor for the **Association** and shall report to the **Convention** on the activities of the **Association**. The Executive Council shall have the right to delegate authority to officials and executives of the **Association** to sign agreements on its behalf, open bank accounts, sign cheques, invest excess funds of the **Association**, and to transact such business as is necessary to maintain the **main object** of the **Association**.

Executive Council Members shall be Members of the Council in their private capacities.

Membership of the Executive Council shall lapse if a Member of the Council is absent from three consecutive Meetings of the Council.

The President, and in his absence, the President Elect shall be the Chairman of the Executive Council. If neither are present the Members present shall elect a Chairman from amongst themselves.

Voting in the Executive Council shall be by a show of hands and the Chairman of the Meeting shall have a casting vote. Half the Members of the Executive Council present at any Meeting of the Council shall constitute a quorum. A simple majority shall carry a motion.

The President or any four Members of the Executive Council can call a Meeting of the Executive Council by giving at least 7 days notice to Members accompanied by an agenda of the matters to be considered by the Meeting.

8.3. Executive Council Membership

The Executive Council shall have the following Members:

One representative each from the Association of Municipal Electricity Utilities of Southern Africa, The Institute of Municipal Finance Officers, and Eskom or their successors in title.

One member from each of the provincial **branches** of the **Association**, preferably the Chairman of the branch

The President, President Elect, the immediate past President and the Secretary of the **Association** shall be *ex-officio* Members of the Executive Council.

The Executive Council may co-opt up to four persons to serve on the Executive Council as co-opted Members of the Council. Co-opted Members of the Council shall not be permitted to vote at Council Meetings.

If any of the positions of President or President-Elect become vacant, the Executive Council can nominate a new President or President-Elect as may be the case.

9. EXECUTIVE OFFICERS OF THE ASSOCIATION

9.1. President & President Elect

The President of the **Association** shall be the Chief Executive Officer of the **Association** and shall direct any such activities as the Executive Council may delegate to him from time to time.

The President Elect shall assist the President in his duties. The term of duty of the President shall be no longer than two years. The Presidents term of office shall expire at the **Convention** when the Convention elects a new President Elect and the present President Elect become the new President.

9.2. General Secretary:

The Executive Council shall appoint as a General Secretary, either an individual or a body corporate who shall be the chief official of the **Association**.

The duties of the general secretary shall be:

- the keeping of a register of Members of the **Association**;
- the keeping of the accounts of the **Association** in terms of generally accepted accounting practices;
- the secretarial work concerned with **Conventions**, and Meetings of the Executive Council and any subcommittees of the Executive Council;
- the presentation to the **Convention** of the Annual Financial Statements of the **Association**;
- the presentation of quarterly Financial Statements to the Executive Council;
- any other duties determined by the Executive Council.

10. FINANCIAL AFFAIRS

The financial year of the **Association** shall end on 31 December of each year.

Budgets shall be set by the **Executive Council** for each year and regular comparisons of actual financial income and expenditure shall be done against such budgets.

The Association may not incur financial liabilities that are in excess of the assets of the **Association**. Excess funds not needed for immediate use by the **Association** shall be invested with registered financial institutions at market related interest rates.

All expenses shall be authorised by the General Secretary together with one Member of the **Executive Council** so authorised by the **Executive Council**.

11. BRANCHES

The Association shall have at least one branch for each of the provinces of the Republic of South Africa as defined in law from time to time, if the need for a branch exists in a province.

Branches may be established in any country in Africa on such terms as the Executive council may determine from time to time. Branches shall function in terms of branch Constitutions prescribed by the **Executive Council**. The Secretarial costs of **branches** shall be borne by the **Association** on a basis determined by the **Executive Council**.

Each **Branch** shall be entitled to a representative member on the **Executive Council** duly elected by the **Branch**. **Branches** may not bind the **Association** in any contract what so ever unless authorised by the **Executive Council**.

12. FOUNDING CLAUSE

The Founding Meeting of the **Association** shall have the same status as a **Convention** and any number of persons present shall represent a quorum. The Founding Meeting shall have the right to adopt this Constitution, delegate powers to open bank accounts for the **Association** as well as signatory rights to such bank accounts. The founding Meeting shall have the power to appoint a General Secretary for the **Association** and shall elect the first President of the **Association**. The Founding Meeting shall also convene the first **Executive Council**, which Council shall not be bound to have the number of Executive Council Members required elsewhere in this **Constitution**. The Founding Meeting shall set the date for the first **Convention** of the **Association** which date may not be more than one year from the founding Meeting date. The first Executive Council shall have the right to amend the Constitution and shall have this right until the first **Convention** of the **Association**.

13. REGULATORY GOVERNANCE AND COMPLIANCE

The following limitations as determined by Section 30b of the Income Tax Act, No 58 of 1962 ("the Act") are recorded as forming part of the constitution:

- i) SARPA will have a board consisting of at least 3 persons, who are not connected persons in relation to each other, who shall accept the fiduciary responsibility of SARPA;
- ii) No single person may directly or indirectly control the decision-making powers relating to SARPA;
- iii) SARPA may not directly or indirectly distribute any of its funds or assets to any person, other than in the course of furthering its objectives;
- iv) SARPA is required to utilise substantially the whole of its funds for the sole or principal object for which it has been established;
- v) No member may directly or indirectly have any personal or private interest in SARPA;

- vi) Substantially the whole of the activities of SARPA must be directed to the furtherance of its sole or principal object and not for the specific benefit of an individual member or minority group;
- vii) SARPA may not have a share or other interest in any business, profession or occupation which is carried on by its members;
- viii) SARPA must not pay to any employee, office bearer, member or other person any remuneration, as defined in the Fourth Schedule, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered;
- ix) Substantially the whole of SARPA's funding must be derived from its annual or other long-term members;
- x) SARPA must as part of its dissolution transfer its assets to -
 - another entity approved by the Commissioner in terms of this section;
 - a public benefit organisation approved in terms of section 30 of the Act;
 - an institution, board or body which is exempt from tax under section 10(1)(cA)(i) of the Act;
 - the persons contemplated in paragraph (b)(i) will submit any amendment of the constitution or written instrument of the entity to the Commissioner within 30 days of its amendment;
- x) The entity will comply with such reporting requirements as may be determined by the Commissioner from time to time; and
- xii) The entity is not knowingly and will not knowingly become a party to, and does not knowingly and will not knowingly permit itself to be used as part of, an impermissible avoidance arrangement contemplated in any section of the Act.

Signed by the President
11 July 2014