



**PROCEDURE FOR AVOIDANCE AND RESOLUTION OF DISPUTES
AND
DISCIPLINARY CODES**

BROAD FRAMEWORK

1. **DEFINITIONS**

- 1.1 Any term in this document defined in the Constitution of the South African Equestrian Federation (“**SAEF**”), as amended from time to time, shall have the same meaning as assigned therein unless inconsistent with or otherwise indicated by the context.
- 1.2 The following words and phrases that are used in this Code shall have the meaning as ascribed to them in below.
- 1.2.1 "**Articles**" means the Articles of Association of SAEF;
- 1.2.2 "**Chairperson**" means the chairperson of the Commission or member of the Commission acting as chairperson at a meeting of the Commission where the chairperson is absent or for any reason unable to perform his or her functions;
- 1.2.3 "**Code**" means this Dispute and Disciplinary Code and Procedures as a whole, as amended from time to time, and as adopted, in accordance with the requirements of the SAEF Constitution.
- 1.2.4 "**Constitution**" means the means the SAEF Constitution;
- 1.2.5 "**Commission**" means the judicial body, being the Legal, Disciplinary, Ethics and Appeals Committee, as appointed by the Executive Committee of the SAEF, as a sub-committee of the Executive Committee, in terms of Clause 33 of the SAEF Constitution, appointed to administer any form of judicial process inclusive of investigations, hearings, determinations and recommendations.;
- 1.2.6 "**Deposit**" means fee to be paid to SAEF for hearing of appeal.
- 1.2.7 "**Disciplinary Code**" means the that part of this Code regulating the discipline of Members and individuals falling under the jurisdiction of SAEF, as contained in Part C of this Dispute and Disciplinary Code Procedure;
- 1.2.8 "**Dispute**" means (i) any dispute contemplated to be resolved by SAEF in terms of the Act or any other applicable legislation; and (ii) disputes contemplated in terms of the SAEF's Constitution to be resolved through SAEF structures;
- 1.2.9 "**Dispute and Disciplinary Code Procedures**" means the procedures as set out in this Code dealing with disputes and disciplinary codes as contemplated in the Constitution, applicable to every person and/or entity falling under the jurisdiction of SAEF;

- 1.2.10 "**Dispute Prevention and Resolution Procedures**" means the procedures as set out in this Code dealing with dispute prevention and resolution as contemplated in the Constitution, applicable to every person and/or entity falling under the jurisdiction of SAEF;
- 1.2.11 "**Judicial Body**" means the Commission;
- 1.2.12 "**National Council**" means the membership of the SAEF in general meeting.
- 1.2.13 "**Member/s**" means a Member as contemplated in SAEF's Constitution, and shall specifically include, for the purpose of this document any Ordinary Member, Associate Member, Athlete, Honorary Life Member, Patron, Official, Administrator, Show Holding Body, Show Organiser or any other individual that may fall under the auspices of the SAEF by virtue of their participation or involvement in equestrian sport within South Africa;
- 1.2.14 "**Referring Party or Applicant**" means any Member who lodges a complaint or dispute with SAEF;
- 1.2.15 "**Respondent**" means a Member against whom a complaint or dispute is lodged;
- 1.2.16 "**Rules**" means the rules as set out in this Code, as amended from time-to-time, as applicable to all Disputes and Disciplinary Code Procedures and Dispute Prevention and Resolution Procedures, and includes these definitions and any footnote to a rule;
- 1.2.17 "**Rules and Regulations**" means the rules and regulations of SAEF, as amended from time-to-time, and in force, and shall specifically include those rules or regulations that may have been approved by the SAEF Exco, but not yet ratified by the National Council of the SAEF;
- 1.2.18 "**the Act**" means the National Sport and Recreation Act, 1997 (Act No.18 of 1997), as amended from time to time and includes any regulation made in terms the Act.
- 1.3 Where a single gender is used in this document it shall be construed as to include both genders.
- 1.4 Words used in the singular shall include the word in plural form.
- 1.5 These Rules shall, wherever possible, be construed in conformity with the Constitution.
- 1.6 The headings to and any footnotes in these Rules shall be taken into account in the interpretation of these Rules.

- 1.7 All terms as defined in the Act, SAEF's Constitution, read together with the Constitution of SASCOC, whether defined herein or not, shall, when used in this document, have the same meaning as ascribed to them in such relevant documents, and to the extent that there is any conflict then the meaning as ascribed in the SASCOC Constitution shall be applicable.

2. **STRUCTURE OF THIS DISPUTE AND DISCIPLINARY CODE PROCEDURE**

This procedure is made up of the following parts:

PART A BROAD FRAMEWORK

PART B ESTABLISHMENT AND STRUCTURE OF THE COMMISSION

PART C RULES FOR THE CONDUCT OF PROCEEDINGS IN RESPECT OF DISPUTES

PART D DISCIPLINARY CODE

PART E PRESCRIBED FORMS

PART A – BROAD FRAMEWORK

3. **OBJECT OF THE DISPUTE AND DISCIPLINARY CODE PROCEDURES**

3.1 Section 13 of the National Sport Amendment Act 18 of 2007 ("the Act") provides, *inter alia* that:-

- (a) *"every sport or recreation body must in accordance with its internal procedure and remedies provided for in its Constitution, resolve any dispute arising among its members or with its governing body."*¹
- (b) *The sport or recreation body must notify the Minister in writing of any dispute contemplated in paragraph (a) as soon as it becomes aware of such dispute.*
- (c) *Where the dispute cannot be resolved in terms of subsection (1), any member of the sport or recreation body in question may who feels aggrieved, or the sport or recreation body itself, may submit the dispute to the Sport Confederation.*

3.2 The SAEF's Constitution² requires that the SAEF shall utilise the services of this Commission resolve all disputes internally within the SAEF, and further requires that everybody or individual falling under the jurisdiction of SAEF shall ensure that any dispute it has with a body falling under the jurisdiction of SAEF is resolved in accordance with the dispute prevention and resolution procedures set out in the Constitution³.

3.3 In light of the aforesaid, this Dispute and Disciplinary Code and Procedures is hereby established, with the object of implementing the necessary dispute resolution and disciplinary code procedure for adjudication, determination and decision on any disputes or disciplinary matters where it is empowered to do so in terms of the Act and SAEF's Constitution.

4. **ESTABLISHMENT OF THE DISPUTE AND DISCIPLINARY CODE AND PROCEDURES**

The Dispute and Disciplinary Code and Procedures is hereby established, and provide for:

- 4.1 the Broad framework applicable in respect of all dispute prevention, dispute resolution and disciplinary matters dealt with in this Dispute and Disciplinary Code and Procedures;
- 4.2 the recognition of the Commission, as established by the Executive Committee of the SAEF;

¹ For purposes of this document, see 35.1 SAEF Constitution to resolve such disputes.

² Clause 9.19 of SAEF Constitution

³ Clause 33 of the SAEF Constitution

- 4.3 the establishment, structure, function and the role of the Commission in respect of dispute prevention and resolution, as dealt with in this Dispute and Disciplinary Code and Procedures;
- 4.4 the rules and procedures in respect of all relevant proceedings relating to dispute prevention and resolution; and
- 4.5 the procedure for the conduct of disciplinary investigations and hearings in terms of the disciplinary matters.

PART B - ESTABLISHMENT AND STRUCTURE OF THE COMMISSION

5. PURPOSE OF PART B

The purpose of this Part B of the Code is to confirm the establishment of the Commission and to set out its role and powers in relation to the resolution of disputes and disciplinary matters.

6. ESTABLISHMENT AND STATUS OF THE COMMISSION

6.1 The Commission is hereby established pursuant to the Act and to the SAEF's Constitution, for the purpose of adjudicating all properly referred disputes and to implementing the disciplinary code and to, amongst others:

6.1.1 take decisions as to such dispute or disciplinary measures as shall be appropriate in the circumstances, which are not decisions provided to be taken by the SAEF Council in terms of the Constitution;⁴

6.1.2 take decisions regarding the suspension of any individual or Member once a dispute has been properly referred, pending the outcome of a disciplinary process to be implemented, where this is necessary to protect the interests of the SAEF;

6.1.3 make recommendations to the SAEF Council regarding the suspension, fine or termination of membership of any individual or Member, as contemplated in clause 10.22 of the SAEF Constitution, following the conclusion of disciplinary matters;

6.2 The Commission shall be empowered to determine its own rules, procedures and make any decisions concerning their rules and procedures, to the extent that such rules and procedures are not already contained in these Dispute and Disciplinary Code Procedures, provided only that such rules or procedures may not undermine or negate the intentions of the Constitution.

6.3 The proceedings of the Commission shall not be open to the public, unless the Commission orders otherwise.

6.4 The Commission will observe the rules of natural justice, but will have discretion regarding admissibility of evidence notwithstanding an enactment or rule of law to the contrary, relating to the admissibility of evidence in proceedings before a court of law where such admission would be appropriate and not unduly unfair or prejudicial to one or more parties to the Dispute or Disciplinary proceedings.

⁴ Note in terms of clause 10.22 of the SAEF's Constitution the decision to suspend, fine and terminate membership of any individual lies with SAEF.

- 6.5 The Commission has all necessary authority, inherent powers and standing, in relation to any matter under its jurisdiction.
- 6.6 The rules and procedures regulating the functioning of the Commission shall be as set forth in the Code.

7 JURISDICTION AND POWERS OF THE COMMISSION

- 7.1 The Commission shall have all necessary jurisdiction:
 - 7.1.1 over a Member(s) and individual athlete(s), officials, coaches and/or technical staff, in the Republic and abroad, wherever they may be, at any time, engaging in, or having been engaged in, any activity that falls under the jurisdiction of SAEF;
 - 7.1.2 in respect of disputes or alleged disputes in the Republic and abroad;
 - 7.1.3 in respect of any dispute or complaint referred to it by the Council;
 - 7.1.4 over any complaint or allegation, in respect of Members and/or individuals over which/whom SAEF has jurisdiction, not otherwise expressly provided for in the Constitution or this Code, and includes but is not limited to:
 - 7.1.4.1 a breach of the Constitution, the Act or any other governing provisions, as amended from time-to-time;
 - 7.1.4.2 a breach of the rules and/or regulations of SAEF, as amended from time-to-time;
 - 7.1.4.3 directives of the SAEF, as amended from time-to-time;
 - 7.1.4.4 the SAEF code of conduct and/or any other applicable code of conduct in respect of equestrian sport that falls under the auspices of the SAEF;
 - 7.1.4.5 an order or instruction of SAEF properly issued and communicated to the affected individual;
 - 7.1.4.6 a breach of any of the statutes or regulations of the FEI, the IOC or any other relevant national or international body;
 - 7.1.4.7 any matter which may bring, or may be designed to bring, either the SAEF, any of its officers, Members, employees or other associated individual or body, or equestrian sport into disrepute.

- 7.1.5 to condone the late delivery of any documents or referral of a dispute or any other non-compliance by a Member or referring party with the procedures set out in this Code, and to make any appropriate order;
- 7.2 The jurisdiction of the Commission shall be subject only to the following:
 - 7.2.1 That the party referring a dispute or complaint to SAEF and/or Commission must have first exhausted all available internal remedies, at all appropriate levels ie from the club level, through the regional level and the provincial structures, as provided for in the constitution or regulations of Member, which is applicable to such a party, and as may be applicable to such a dispute or complaint;
 - 7.2.2 Where the internal remedies of a Member applicable to the referring party have not been made available or are not reasonably accessible to the referring party, such a party may approach the Commission directly in writing, in the format as required by the Commission, and the Commission shall have the necessary discretion to allow or to refuse to hear the dispute.
 - 7.2.3 The Commission shall not have jurisdiction in respect of: -
 - 7.2.3.1 matters in respect of which the referring party or Applicant has not complied with 7.2.1 above in exhausting internal remedies;
 - 7.2.3.2 any dispute or complaint that has been previously heard and/or decided and/or ruled upon by the Commission.

8 COMPOSITION OF THE COMMISSION

- 8.1 The Commission shall consist of: -
 - 8.1.1 the Chairperson of SAEF's Legal, Disciplinary, Ethics and Appeals Committee or his/her Deputy or another Member of the Legal, Disciplinary, Ethics and Appeals Committee appointed to chair the proceedings;
 - 8.1.2 in the event of any conflict of interest on the part of the Chairperson in respect of any matter referred to the Commission, the Chairperson shall appoint another member of the Commission, or an independent third party, as the Chairperson in respect of that particular matter;
 - 8.1.3 an independent external person, or persons, if such person(s) participation is deemed necessary by the Commission, to assist with the adjudication of a Dispute; and/or
 - 8.1.4 the Secretary of the Commission or such other person designated by the Commission shall provide secretarial services to the Commission.

9 QUORUM

9.1 The Commission shall be convened by the Chairperson from time to time to deal with disputes, complaints or allegations or disciplinary matters referred for resolution by SAEF.

9.2 In order to constitute a Commission for a hearing or consideration of a dispute at least (3) three duly appointed members of the Commission must be present. However, in the event that the hearing commences with (3) three members and one (1) member does not seat through the proceedings to their completion, the decision of the remaining (2) two members shall constitute a valid and enforceable finding.

9.3 In circumstances: -

9.3.1 involving resolution of a dispute in relation to a sporting event taking place outside South Africa and which needs to be resolved during the course of such event; or

9.3.2 other exceptional circumstances as determined by the decision of the Legal and Arbitration Commission,

a single member of the Commission may initiate and/or constitute a quorum for purposes hearing of a Dispute.

10 PASSING THE DECISIONS

10.1 Decisions of the Commission are passed either by consensus or a simple majority of the members of the Commission present.

10.2 Decisions passed by consensus of all members and signed by all the members shall constitute a decision for purposes of 10.1 above even when it is not passed in a meeting.

10.3 Decisions passed by votes must be in a meeting of the Commission.

10.4 Every member of the Commission present shall be entitled to vote.

10.5 All hearings of the Commission will be presided over by a Chairperson, and in the absence or recusal of the Chairperson, one of the members appointed by the Chairperson to represent him/her shall act as Chairperson.

10.6 The Commission may appoint any independent person, with specific specialty, to sit in a hearing if that person may assist the process although that person, unless appointed as a member of the Commission for the purpose of that particular matter, may not vote.

- 10.7 The Commission will apply the Constitution of the Republic of South Africa, Constitution of SAEF, Rules and Regulations of SAEF and the peremptory prescripts of SASCOG, the FEI and the International Olympic Committee.
- 10.8 The Commission may adopt its own procedure (without deviating from the Dispute Prevention and Resolution Rules) with the minimum of legal formalities but complying with the principles of natural justice.
- 10.9 The Commission must conduct its proceedings in a fair manner and efficiently with the minimum formalities in compliance with the rules of natural justice.

11 CONFLICT OF INTEREST

- 11.1 Members of the Commission must decline to participate in any hearing where their participation will result in conflict of interest or will raise serious doubts regarding their impartiality. This applies in the following cases (among others) where: -
- 11.1.1 the member(s) in question has a direct interest in the outcome of the matter;
 - 11.1.2 if he/she is associated with any of the parties;
 - 11.1.3 if he/she is the member of the party in respect of whom a dispute arose; and
 - 11.1.4 if he/she has already dealt with the case under different circumstances.
- 11.2 Members who decline to participate in a hearing on any of the above grounds or any other ground not listed herein shall notify the Chairman immediately.
- 11.3 Member(s) of the Commission or parties involved in a dispute may also raise an objection to a member of the Commission that they believe to be biased or whose participation will result in conflict of interest or will raise serious doubts regarding their impartiality.
- 11.4 The Chairman shall decide on any such claim of bias, provided that, if the objection is raised against the Chairman, the other Members shall decide on the bias.
- 11.5 Proceedings that have involved someone whom the Chairman has ordered not to participate will be considered null and void.

12 CONFIDENTIALITY

- 12.1 The members of the Commission shall ensure that everything disclosed to them during the course of their duty remains confidential (facts of the case, contents of the deliberations and decisions taken).

- 12.2 Only the contents of those decisions already notified to the addressees may be made public.

13 POWERS OF THE COMMISSION

- 13.1 Upon hearing of a dispute or implementing the Disciplinary Code the Commission shall have the powers to -

- 13.1.1 warn or reprimand a party to a dispute; and/or
- 13.1.2 recommend a suspension of a Member or individual; and/or
- 13.1.3 recommend a fine to be imposed in respect of a Member or individual; and/or
- 13.1.4 recommend termination of membership of any individual affiliated through their respective National Sports Association or Member;
- 13.1.5 dismiss a complaint or dispute if it is vexatious, frivolous or does not set out a *prima facie* case or for any grounds as shall be appropriate in law; and/or
- 13.1.6 make any appropriate order including an order that a party pay the costs the other party.

14 SUPPLEMENTARY POWERS OF THE COMMISSION

For purposes of determining or deciding, or resolving a Dispute the Commission may also:-

- 14.1 consult or seek further information evidence and/or expert evidence regarding the dispute from the complainant or any person or body, including the Respondent;
- 14.2 seek legal or other advice or assistance from any person or body;
- 14.3 order any Member to produce documents or information as may be relevant to the Dispute; and/or
- 14.4 order any Member to appear in person in respect of a Dispute where such an individual 's evidence may be relevant to the Dispute.

15 ISSUING A SUBPOENA

The Commission may at any stage subpoena any person or body bound by the Constitution or the constitution of that member and these rules to appear before the Commission to, give evidence or produce any book, paper or document in the hearing.

16 FORM AND CONTENT OF THE DECISION

The decision or award of the Commission shall contain: -

- 16.1 the composition of the Commission;
- 16.2 the names of the parties;
- 16.3 a summary of the facts;
- 16.4 the legal reasons for the decision;
- 16.5 the terms of the decision; and
- 16.6 be signed by the chairperson and secretary.

17 RECORDINGS OF THE PROCEEDINGS OF THE COMMISSION

- 17.1 The Secretary must keep a record of –
 - 17.1.1 any evidence given in the hearing;
 - 17.1.2 any sworn testimony given in any proceedings before the Commission;
 - 17.1.3 any award or ruling made by a Commission.
 - 17.1.4 any descending judgement(s) which are not part of the award.
- 17.2 The record may be kept by legible hand-written notes or by means of an electronic recording.
- 17.3 Any party may request a copy of the transcript of a record or a portion of a record, on payment of the reasonable costs of the transcription.
- 17.4 After the person who makes the transcript of the record has certified that it is correct, the record must be returned to the Secretary.

17.5 The transcript of a record certified as correct in terms of .13.4 above it is presumed to be correct, unless the Chairperson decides otherwise.

PART C – RULES FOR THE CONDUCT OF PROCEEDINGS IN RESPECT OF DISPUTES

18 PURPOSE OF PART C

Purpose of this Part C – Dispute Prevention and Resolution Procedure, is to provide a procedure to prevent and/or resolve any dispute involving a Member or individual falling under the jurisdiction of SAEF, as contemplated in the Act or the Constitution.

19 ESTABLISHMENT OF THE DISPUTE PREVENTION AND RESOLUTION PROCEDURES

These Dispute Prevention and Resolution Procedures are established to apply as the dispute resolution procedures contemplated in the Constitution and shall apply in respect to a dispute, complaint or allegation(s) lodged by a Member or individual over whom SAEF has jurisdiction against any Member or individual over whom the SAEF has jurisdiction.

20 THE COMMISSION

20.1 The Code recognises the existence of the Commission as established by SAEF with the mandate to –

- 20.1.1 advise and provide recommendations on the formulation of policy documents;
- 20.1.2 consider and advise on legislation and other regulatory matters which may be of relevance to SAEF;
- 20.1.3 consider, advise and make recommendation with respect to legal issues brought to it by the President on behalf of the Council and/or the CEO;
- 20.1.4 advise on Governance matters pertaining to SAEF;
- 20.1.5 consider and preside over matters for investigation, dispute resolution or disciplinary hearing;
- 20.1.6 make recommendations for the appointment of panels(s) for the purpose of conducting arbitration proceedings; and
- 20.1.7 advise on matters to be referred for arbitration or litigation.

20.2 Pursuant to its mandate the Commission shall carry out the primary responsibilities of avoidance of disputes, resolution of disputes, hearing of all disciplinary matters and assist with implementation of the Disciplinary Code, which it shall carry out, *inter alia*, as follows-

- 20.2.1 considering and recommending measures that can be adopted by SAEF to avoid disputes;
- 20.2.2 introduce policy documents that can avoid disputes;
- 20.2.3 propose policies, procedure including amendments to the Code or the Disciplinary Code, for purposes of dealing with disputes prevention and resolution;
- 20.2.4 consider disputes, complaints or allegations as referred to SAEF as the first point of reference and determine whether-
 - 20.2.4.1 there are possible measures of resolution of such disputes without the need for Arbitration, including dialogue between the parties to a dispute;
 - 20.2.4.2 consider and recommend where appropriate mediation of disputes as a possible step for resolving the disputes;
 - 20.2.4.3 consider and recommend possible mediators;
 - 20.2.4.4 decide on the dismissal of a dispute referred by SAEF, upon initial consideration on the basis of that is frivolous or vexatious or does not set out a *prima facie* case;
 - 20.2.4.5 such disputes should be referred to the Commission and the establishment of the Commission for purposes of adjudicating Disputes;
 - 20.2.4.6 exercise functions relating to convening and composition of the Commission from time to time as contemplated in this Code and the Disciplinary Code for purposes of avoidance and/or resolution of disputes and/or implementation of the Disciplinary Code.

21 JURISDICTION AND POWERS OF COMMISSION

- 21.1 The establishment and structure of the Commission is in terms of the SAEF constitution, which delegate the jurisdiction and powers to the Commission to consider and make decisions in respect of disputes properly referred to it.
- 21.2 The Commission is established to give effect to the prescripts of the Act, SAEF Constitution with the jurisdictional powers as set out in PART B of the Code.

22 REFERRAL OF DISPUTES, SERVING AND FILING DOCUMENTS

- 22.1 All Disputes shall be referred by a Member or individual over whom SAEF has jurisdiction to the Legal, Disciplinary, Ethics and Appeals Committee of the SAEF, with a request that such dispute be handled in terms of this Code and the Disciplinary Code.
- 22.2 A Member or individual referring a dispute to SAEF, shall not do so without first having exhausted all available internal remedies, as provided for in that Member's own constitution, or the constitution of the body or Member with which an individual has a dispute, as applicable, unless such referring Member or individual can demonstrate, as part of its referral to the Commission, that the relevant internal remedies have not been made available or are not accessible to the referring party, in which event the Commission shall have the discretion to allow or refuse to hear the dispute.
- 22.3 The referral of dispute by a Member or individual, shall be in a prescribed format and submitted and/or sent by electronic mail, hand delivered or registered mail to the Commission, provided that it shall be the responsibility of the referring party to make telephonic enquiries with Commission, alternatively the SAEF, to ascertain that such referral has been received by the Commission. It is to be noted that the preferred method of submission of any such referral is by way of electronic mail.
- 22.4 The referring party must set out in detail, the full facts on which the complaint or dispute is based and refer to the alleged clause(s) of the Constitution, Rule and Regulations, Code of Conduct, or any other basis on which the dispute is founded, which have allegedly been contravened.
- 22.5 No disputes shall be considered by the Commission unless such dispute is lodged in the prescribed format and accompanied by the relevant vouchers, documents and/or receipts and proof of payment of R2000.00 for the hearing of the appeal. Should the appeal be successful the deposit will be refunded. Should the appeal be unsuccessful the complainant will forfeit the deposit paid.

NEDBANK ACCOUNT

SAEF

ACC NUMBER: 1006673431

BRANCH CODE: 198765

- 22.6 The physical address, telephone number and e-mail address of the office of the Legal, Disciplinary, Ethics and Appeals Committee are as follows: -

Physical address: 475 Papenfus Drive, Beaulieu Country Estate, Kyalami, Johannesburg

Postal Address: P.O.Box 30617, Kyalami, 1684

Telephone: 011 468 3236

E-Mail: saeflegal4@saef.org.za

22.7 Referrals and/or documents related thereto may only be filed and/or submitted to the SAEF at the addresses listed in 22.6 above during the office hours of SAEF.

22.8 Office Hours of the SAEF are as follows; -

Monday to Friday: times 08h00 to 16h00 excluding public holidays, or as determined by the SAEF and/or the Commission.

22.9 The Commission shall, upon receipt of the referral of a dispute, arrange for the Commission to stipulate the procedure to be followed by the party referring the dispute and any other party affected by the dispute, which procedure shall be stipulated in writing, for purposes of ensuring that the dispute shall be formulated in a manner that will expedite the hearing or adjudication thereof by the Commission. Any such stipulation shall be in accord with this Code and the Constitution, and shall adhere to the principles of natural justice.

23 CALCULATION OF TIME PERIODS

For the purpose of calculating any period of time: -

23.1 a day means a business day;

23.2 the first day is excluded and the last day is included,

23.3 Saturdays, Sundays and Public Holidays shall be excluded.

24 HEARING OF DISPUTES

24.1 Any dispute referred to the Commission will be heard within a reasonable time, subject to compliance with the requirements of these procedures or directives issued by the Commission, with regard to dispute(s) resolution process.

24.2 The Chairman, in consultation with the Commission, shall determine the procedure to be followed in the hearing of any dispute(s) to the extent not already provided for in the Code or the Disciplinary Code.

24.3 The Commission shall notify the parties of the date, time and place of the hearing.

24.4 The Commission shall be entitled, at its own discretion and depending on the availability of the members of the Commission for that particular hearing, to set the date, time and place of any hearing, and shall not be obliged to entertain any representations from the parties in respect thereof.

24.5 An electronic mail proven by an automatic delivery notice to the known email address of either party, or a notice sent per registered post proven by a registered slip, that has been sent to a party's last-known email address or domicile address or the address of that party's last-known representative will be deemed to be sufficient notice of the date, time and place of the hearing for the purposes of this rule.

25 POSTPONEMENT OF A HEARING

A scheduled hearing may be postponed by: –

25.1 the Commission, on written notice thereof to the parties at any time prior to the commencement of the hearing; or

25.2 the Commission on written application by a party, which application must be served on the Commission and the other party at least 6 (six) days prior to the hearing, setting out substantive reasons for the postponement requested.

25.3 The Commission must postpone a hearing without the parties appearing if: –

25.3.1 all the parties to the dispute agree in writing to the postponement; and

25.3.2 the written agreement for the postponement is received by the Commission at least 6 (six) working days prior to the scheduled date of the hearing.

25.4 Any party opposing a postponement shall be entitled to make a written submission to the Commission opposing any such application, setting out its substantive reasons for opposing the postponement, which must be served on the Commission and the applying party at least 4 (four) days prior to the scheduled date of the hearing.

25.5 After considering the representations of the parties in respect of any postponement, the Commission shall enjoy the discretion as to whether or not to grant a postponement, which shall be conveyed to all the parties to the dispute in writing.

25.6 In the event that the Commission grants the postponement as requested, the notice of postponement must be delivered to all of the parties 2 (two) days before the date on which the hearing was scheduled.

25.7 The Notice of postponement must be in a prescribed format.⁵

25.8 If a party bringing an application for a postponement of a hearing fails to comply with the time periods referred to in 25.1.2 above, the hearing must take place on the scheduled date, unless the Commission on good cause shown grants a postponement and conveys his decision to all parties to the dispute.

26 REPRESENTATION BEFORE THE COMMISSION

All proceedings before the Commission are, by their very nature, civil internal proceedings, and accordingly all parties to the matter: -

26.1 may appear in person; alternatively

26.2 where a party is a Member or an organisation affiliated to the SAEF, or a body (whether incorporated or founded in terms of a constitution) that party may be represented by a director, executive member, officer, office-bearer, committee member or official associated or affiliated in any capacity and duly appointed to represent such party, and such representative may be required to prove the nature of their association or affiliation with such party prior to enjoying any recognition in the proceedings of the hearing;

26.3 it being specifically recorded that no party to any such hearing shall be entitled to be represented or assisted by an external legal representative (whether a legal adviser, lawyer, attorney or advocate) where such legal representative is appointed thereto in terms of a mandate or power of attorney or other means, whether or not such legal representative shall be remunerated therefore or not

27 SIGNING OF DOCUMENTS

27.1 Any document that a party must sign in terms of these rules may be signed by the party or by a person entitled, in terms these rules, to represent that party in the proceedings.

27.2 If proceedings are jointly instituted or opposed by more than one person or Member(s), documents must be signed by an individual who is mandated by the Member or individual concerned, to sign documents.

27.3 A name list in writing of the Members or individuals who have mandated the member to sign on their behalf must be attached to the Dispute Referral Form.

28 PRELIMINARY INQUIRY

⁵ DPRC FORM 6: PART E

- 28.1 The Commission may decide on whether a dispute has been properly referred and is to be dealt with in terms of these procedures.
- 28.2 If the Commission decides that a dispute has not been properly referred, it may decide not to hear such a dispute or give direction as to how such a dispute should be dealt with.
- 28.3 The Commission may, decide, after considering the dispute, whether to dismiss the dispute if it is found to be frivolous or vexatious or does not set out a *prima facie* case.
- 28.4 The Commission may, in order to decide whether or not to dismiss the dispute call for further information or affidavits from the referring party; and should the referring party fail to furnish such information, the Commission may dismiss the dispute.
- 28.5 If the dispute is dismissed the Commission must, within 10 (ten) days after the dismissal of the dispute, inform the referring party of such a dismissal and the reasons for same.
- 28.6 The Commission may contact the parties by telephone or other electronic means, prior to the commencement of the hearing, in order to seek to resolve the dispute.

29 PRE-HEARING MEETING

- 29.1 The Commission has a discretion to decide on whether there is need for a pre-hearing, and form thereof, and if it is decided that the pre-hearing is necessary then the Commission shall, not later than 10 (ten) prior to the hearing, notify the parties of the date, time and place for the pre-hearing meeting.
- 29.2 The following may be dealt with at the pre hearing meeting, for each party to:
 - 29.2.1 provide admissions on certain issues;
 - 29.2.2 confirm that the referring party has exhausted internal remedies;
 - 29.2.3 advise whether any agreement may be reached regarding the presentation of evidence by means of an affidavit;
 - 29.2.4 raise any dispute regarding the duty to begin or the onus of proof;
 - 29.2.5 agree which documents or copies of documents will, without further proof, serve as evidence of what they purport to be;
 - 29.2.6 agree which extracts may be proved without proving the whole document or any other agreement regarding the proof of such documents; and

29.2.7 discuss any possible settlement of the dispute.

30 MINUTES OF THE PRE-HEARING MEETING

- 30.1 Following any pre-hearing meeting, the minutes or the written record of the meeting must be prepared and signed by or on behalf of every party;
- 30.2 The minutes must contain the date, place and duration of the conference and the names of the parties present.
- 30.3 The minutes of the pre-trial meeting must be filed with the Commission, and shall form part of the record of the hearing.

31 HEARING OF A DISPUTE

- 31.1 Subject to clause 28 above, if the Commission determines that the dispute has been properly referred and is not to be dismissed, the Commission shall, as soon as is reasonably possible and within a reasonable time after the referral of the dispute to the Commission, notify the parties in writing:
 - 31.1.1 in the event that the Commission determines that a pre-hearing should be held, the date thereof; alternatively
 - 31.1.2 the date of hearing.
- 31.2 The Commission must send a notice of set down of hearing to the Parties.
- 31.3 The hearing must be set down in accordance with **PART D** – Disciplinary Code.

32 FAILURE OF A PARTY TO ATTEND HEARING OF THE COMMISSION

- 32.1 If either party fails to attend at any proceedings before the Commission, the Commission may dismiss the matter by issuing a ruling.
- 32.2 If either party fails to attend or be properly represented at any proceedings before the Commission, the Commission may-:
 - 32.2.1 continue with the proceedings in the absence of the such a party; or
 - 32.2.2 adjourn the proceedings to a later date.
- 32.3 the Commission must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decision in terms of sub rule 32.2.

32.4 If a matter is dismissed, the Commission must send a copy of the ruling to all the Parties.

33 ISSUING A SUBPOENA

33.1 The Commission may, at any stage, subpoena any person or body bound by the Constitution of SAEF and/or these rules, or the Constitution, to give evidence or produce any book, paper or document in the hearing.

33.2 The Commission may also issue a subpoena at the request of either party, where such request is made in terms of these rules. The requesting party must send a subpoena in a prescribed format⁶ together with a written motivation setting out why the evidence of the person to be subpoenaed is necessary.

33.3 A party requesting the Commission to issue a subpoena is liable for the reasonable witness fees as calculated in accordance with Schedule 1.⁷

33.4 A request for a subpoena must be sent to the Secretary at least (14) fourteen days before the hearing, or as directed by the Commission.

34 REFUSAL TO ISSUE A SUBPOENA

34.1 The Commission may refuse to issue a subpoena if–

34.1.1 the requesting party does not establish why the evidence of the person is necessary;

34.1.2 the party subpoenaed does not have a reasonable period in which to comply with the subpoena;

34.1.3 the subpoena is not issued in accordance as prescribed format; or

34.1.4 The Chairperson of the Commission is not satisfied that the party has made arrangements to pay the reasonable witness fees and the reasonable travel costs of the person subpoenaed.

35 SERVICE OF A SUBPOENA

35.1 A subpoena must be served on the witness (as) subpoenaed by the Commission and/or the Messenger of the Court, or by any person so directed by Commission:

⁶ DPRC FORM 4: PART E.

⁷ SCHEDULE 1: PART E.

- 35.1.1 at least (14) fourteen days before the date of the hearing or such earlier period as may be directed by the Chairperson;
- 35.1.2 accompanied by payment of the prescribed witness fees for one day and the witnesses' reasonable travel costs; alternatively
- 35.1.3 the subpoena may be served by sending it per registered mail to the witness' proven domicile address, per electronic mail to the witness' proven email address, or through the sheriff of the court.

36 CONDUCT OF WITNESS(ES)

- 36.1 A witness subpoenaed to attend a hearing of the Commission, who fails to attend or to remain in attendance at such hearing until excused by the Commission, shall be guilty of misconduct.
- 36.2 If any witness, after being subpoenaed, present at the hearing is required to give evidence at such hearing and refuses to answer any question(s) put to him or her, or refuses or fails to produce any book, paper or document required to be produced by him or her, the Commission may, in summary manner, enquire into such refusal or failure, and unless the person refusing or failing has a just excuse for the refusal or failure, shall impose a fine not exceeding R15 000,00 (fifteen thousand rands) over and above any sentence it deems appropriate in accordance with the Constitution and these rules.
- 36.3 No person other than the referring party, its representative, the respondent, its representative or any person called as a witness to appear before the Commission shall be entitled to attend a hearing, except with the express permission of the Commission.

37 COMPLIANCE WITH PENALTIES IMPOSED BY THE COMMISSION

Any penalties, orders or awards imposed by the Commission shall become effective (30) thirty days after the date on which any internal remedies available to a party/ies so sentenced shall have been exhausted, or when the prescribed time limit to exercise the next available internal remedy shall have lapsed.

38 COMMUNICATING THE OUTCOME OF THE DISPUTE

Decisions, rulings or awards may be communicated by registered mail and shall be legally binding.

39 APPEAL

- 39.1 Any party aggrieved by a decision of the Disciplinary Committee may refer the matter to the Appeals committee for its final determination.

- 39.2 Any party aggrieved by the decision of the Appeals Committee, may appeal to SASCO provided the leave of the Appeals committee is first sought and obtained within a period of 21 (twenty-one) days of the date on which the determination was notified to the parties.
- 39.3 The Appeals committee shall grant the necessary discretionary leave if the matter is of great importance to the parties concerned and the referral sought is not judged frivolous or vexatious.

PART D - DISCIPLINARY CODE**40 PURPOSE OF PART D**

The Disciplinary Code is established to regulate the exercise of disciplinary proceedings within the SAEF, between the SAEF and its Members or individuals subject to the jurisdiction of the SAEF.

41 NOTICE OF A DISCIPLINARY HEARING

41.1 In cases where charges are preferred by SAEF against a Member or an individual subject to the jurisdiction of the SAEF, and such a party has been charged with any offence falling within the jurisdiction of the Commission: -

41.1.1 the SAEF shall cause to be delivered to such a party a Notice of disciplinary hearing in the prescribed format 15 (fifteen) days before the date of hearing;

41.1.2 the Commission may, in certain circumstances, suspend or extend the delivery of a Notice of disciplinary hearing for a reasonable time;

41.1.3 the Notice of disciplinary hearing shall be signed by SAEF;

41.1.4 the Notice of disciplinary hearing shall be in a prescribed format.

42 RIGHT TO SUSPEND

42.1 In any cases where the circumstances may warrant and/or where the Commission has a reasonable apprehension that such Member or individual may be able to interfere with the investigation of the various charges to be put to such Member or individual, or in any other manner cause further harm (howsoever arising) to the SAEF should they be precluded from continuing with their activities, the Commission shall be entitled to suspend such Member or individual from all activities which fall under the jurisdiction of the SAEF:

42.1.1 pending the finalisation of the charge sheet and/or

42.1.2 the outcome and/or

42.1.3 the finalisation of the disciplinary action.

42.2 Any such suspension shall be notified to the affected Member or individual in writing, setting out the reasons for the suspension, and advising the Member or individual of the anticipated process that will follow, together with an indication of the time period for which such suspension shall be effective.

42.3 All notifications in respect of any such suspension shall only be communicated to affected or involved persons, to the extent only that it may be necessary to enforce the suspension.

43 THE CHARGE SHEET

43.1 Where charges are brought by SAEF against a Member or an individual subject to the jurisdiction of the SAEF, such charges shall be initiated by the notice of a disciplinary hearing and formulated by way of a charge sheet which: -

43.1.1 shall contain a concise summary of the facts;

43.1.2 shall set out concisely the charge(s) preferred against such a party; and

43.1.3 if deemed appropriate by the SAEF, may set out a possible sanction that may be imposed flowing from the succesful prosecution of such charge(s).

44 SANCTIONS OF THE COMMISSION

44.1 When a charge is proved to the satisfaction of the Commission presiding over the disciplinary hearing the following sanctions may be imposed:

44.1.1 A warning or reprimand; and/or

44.1.2 Recommendation for the suspension of a Member or individual; and/or

44.1.3 Recommendation for a fine to be imposed in respect of a Member or individual; and/or

44.1.4 Recommendation for the termination of membership of the Member or the termination of membership and/or the banning from the sport, of any individual affiliated to the SAEF, either directly or through their affiliation to a Member, whether current or past;

44.1.5 Dismissal of the complaint or dispute if it is vexatious, frivolous or does not set out a *prima facie* case or for any grounds as shall be appropriate in law; and/or

44.1.6 Any other appropriate order, including any order as to the costs in respect of such hearing.

45 PROCEDURE BEFORE THE COMMISSION

45.1 The ordinary procedure as outlined hereunder shall be applicable in cases where the Commission, which is duly and properly authorised to take any such action by the SAEF Council, institutes a charge(s), against a Member or an individual, wherever they may be at any time engaging in activities under the jurisdiction of SAEF, relating to the following:

45.1.1 the alleged infringement of the Constitution, the rules, Regulations, directives, or resolution of SAEF;

45.1.2 any act of misconduct;

45.1.3 improper practices;

45.1.4 misdemeanour;

45.1.5 acts of defiance; and/or

45.1.6 generally bringing sport or SAEF into disrepute.

as contemplated in clause 10.1 of the SAEF's Constitution, read together with, *inter alia*, clauses 10.21, 10.22, 10.23, 25.1, 25.2, 25.6, 27.1, 27.5, 33 and 36.

45.2 The onus of proving the charge shall lie with SAEF, which must prove the charge on a balance of probabilities.

45.3 The Commission shall, subject to these Rules, have the power to:

45.3.1 delegate and/or elect one or more of its member(s) to initiate and/or conduct disciplinary proceedings against a Member.

45.3.2 appoint a *pro-forma* prosecutor and/or nominee to represent SAEF in all disciplinary hearings before the Commission.

45.4 All the parties to the disciplinary proceedings shall be notified by the Commission of the date, time and place of the hearing.

45.5 The charge sheet shall be dispatched within reasonable (at the discretion of the Chairperson before the date of the hearing and shall be on the prescribed format.

45.6 No party other than a party summoned or called as a witness to appear before the disciplinary Commission shall be entitled to attend a hearing except with permission of the Commission.

45.7 The *pro-forma* prosecutor conducting the prosecution may:

- 45.7.1 Before the accused pleads guilty to a charge, withdraw the charge, in which event the accused shall not be entitled to a verdict of acquittal in respect of that charge; and
- 45.7.2 at any time before the accused pleads to a charge at any time after an accused has pleaded to a charge, but before conviction, stop the prosecution in respect of that charge, in which event the Commission will acquit the accused in respect of that charge(s).

45.8 The *pro-forma* prosecutor conducting a prosecution shall:

- 45.8.1 read out the charge sheet addressed to the accused and the accused will then be asked by the Chairman of the Commission to plead "guilty" or "not guilty" to the charges;
- 45.8.2 a plea by the accused that he has already been convicted or acquitted of the offence with which he is being charged may be pleaded together with a plea of "not guilty";

45.9 Where the accused pleads guilty:

- 45.9.1 where the accused pleads "guilty" to the charges;
- 45.9.2 the Commission shall, if satisfied that the accused is guilty of the offence to which he has pleaded "guilty", convict the accused on the accused's plea of "guilty".
- 45.9.3 Nothing in this rule will prevent the *pro-forma* prosecutor from presenting evidence on any aspect of the charge, for the purposes of determining an appropriate sentence.

45.10 Where the accused pleads not guilty:

- 45.10.1 where the accused pleads "not guilty" the Commission may, in its discretion, enquire from the accused whether he wishes to make a statement indicating the basis of his defence;
- 45.10.2 where the accused elects not to make a statement or does so, and it is not clear from the statement to what extent the accused denies or admits the issues raised by his plea, the Commission may question the accused in order to establish which allegations in the charge are in dispute.

- 45.10.3 The Commission may in its discretion, put any question to the accused to clarify any matter raised under this provision, and will enquire from the accused whether an allegation which is not placed in issue by the plea of “not guilty” may be recorded as an admission by the accused of the allegation, and if the accused so consents, such admission will be recorded and will be sufficient proof of such fact.
- 45.10.4 The accused may then call witness(es) to each of whom questions may be put by the accused, in which event they may be cross examined by the accused, the *pro forma* prosecutor and the Commission.
- 45.10.5 At any time, the Chairperson and through him, members of the Commission may question witnesses giving evidence on behalf of SAEF.
- 45.10.6 The *pro forma* prosecutor may then call other witnesses in support of the charge/s.
- 45.10.7 The accused will have the right to ask questions of such other witnesses. Such other witnesses may also be questioned by the *pro forma* prosecutor and members of the Commission.
- 45.10.8 At the conclusion of such evidence, the prosecution’s case will be closed.
- 45.10.9 The Accused shall have the right to apply for a discharge on the basis that *no prima facie* case has been made out by the *pro forma* prosecutor.
- 45.10.10 The accused may then give evidence on his own behalf and in such event he may be cross examined by the *pro-forma* prosecutor and the Commission.
- 45.10.11 At the conclusion of such evidence the accused’s case will be closed.
- 45.10.12 The disciplinary Commission may, if it thinks it is desirable, or on application by *pro forma* prosecutor, or the accused, allow further evidence to be led by either the *pro-forma* prosecutor or the accused, or by both, after their cases are already closed.
- 45.10.13 “Hearsay” evidence as well television and video recordings may be allowed to be used by any party to the proceedings with permission of the Chairperson.
- 45.10.14 No evidence on any previous misconduct of the accused will be admitted, unless, it’s an element of the current charge or relevant to it the accused will have put his character in issue.

45.10.15 After all evidence has been led, the *pro-forma* prosecutor will be allowed to address the Commission on the evidence and the legal position, and this will be allowed irrespective of whether the accused has led evidence or not.

45.10.16 Thereafter, the accused will likewise be allowed to address the Commission. The *pro-forma* prosecutor may reply on any question, which the accused has raised in his address.

45.10.17 Upon the conclusion of the case, the Commission will deliberate thereon. At the discretion of the Commission, the hearing may be postponed to another date at which the verdict will be delivered.

45.10.18 Once a decision has been reached the Chairman will notify the parties in writing of the verdict.

45.10.19 If the accused is found “not guilty” the proceeding will be declared closed.

45.10.20 If the accused is found “guilty” or the accused has pleaded “guilty”, the *pro-forma* prosecutor will be entitled to address the Commission regarding a suitable sentence to be imposed and the accused will be entitled to address the Commission in mitigation of sentence. At the request of either party, the proceedings may be postponed to a subsequent date to allow the parties to prepare their presentations in either mitigation or aggravation of sentence.

45.10.21 Having heard the submission of the parties, the Commission will deliberate upon the most suitable sentence to be imposed.

45.10.22 Once a decision has been reached, the parties will be recalled and the Chairperson will announce the sentence.

45.10.23 The Chairperson shall make available to the parties a written record of the verdict and the sentence pronounced at the conclusion of the hearing, and in so doing shall provide the reasons therefore.

45.10.24 At the discretion of the Commission, and/or upon representation by either of the parties therefore, having heard the evidence led during the hearing of the matter, the Commission may then advise the parties that it will communicate its verdict and/or receive submissions in mitigation or aggravation of sentence and/or deliver its sentence in writing to all of the parties by way of electronic mail, in order to facilitate the speedy and cost effective finalisation of the matter, in order to avoid unnecessary costs occasioned by the holding of further in-person meetings.

- 46.1 Either party shall enjoy the right of appeal against the outcome of any disciplinary processes by submitting their request for such review to the Commission in writing, setting out in detail the basis of their appeal, not more than 14 days after the sentence pronounced by the Commission in respect of any disciplinary matter.
- 46.2 The appellant shall be required to simultaneously copy the other party in its request for an appeal as submitted to the Commission.
- 46.3 The Commission shall review any such requests, and shall revert to the appellant and the respondent, in writing, no more than 14 days after the submission of the appeal, noting whether the Commission shall grant the right to appeal or not, and if the right to appeal is granted, shall set out the appeal process to be followed by the parties.
- 46.4 It is to be noted that the parties, following the outcome of the appeal process within the SAEF, enjoy a final right of appeal to SASCOC, which appeals must be lodged in accordance with SASCOC's rules in respect thereof.

PART E – PRESCRIBED FORMS



DISPUTE REFFERAL [DPRC FORM 1]

1	Applicant/Referring Party:				
	Contact Person:				
	Capacity/Designation:				
	Address:				
	Telephone:	Land:		Mobile:	
	Email:				
	Fax:				
2	Respondent/Other Party:				
	Contact Person:				
	Capacity/Designation:				
	Address:				
	Telephone:	Land:		Mobile:	
	Email:				
	Fax:				
3.	Nature of the Dispute: (Please provide sufficient details, if necessary an attachment may be provided setting out the details)				

4.	Summary of the Facts: (Please provide sufficient details, if necessary an attachment may be provided setting out the details)	
5.	Date dispute arose:	
6.	Place where dispute arose: (Please provide full details)	
7.	Details of internal dispute resolution procedures followed: (Please attach the records or minutes of the internal procedures followed, i.e. the records of disciplinary hearing)	
8	What outcome do you require?	

By my signature hereto, I confirm that I have followed and exhausted all internal grievance/ disciplinary procedures available to me before referring the dispute to the Commission. I further confirm that all of the information provided herein is true and correct to the best of my knowledge and belief.

Signature of the Applicant/Referring Party _____

Signed at _____ on this _____

(place)

(date)



APPLICATION FOR CONDONATION [DPRC FORM 2]
APPLICATION FOR CONDONATION/ NON COMPLIANCE WITH THE RULES
AFFIDAVIT

(Applicant / Referring Party)

And

(Respondent)

I, the undersigned,

(full name of Applicant / Referring Party)

Do hereby make oath and say:

1. BACKGROUND

The dispute arose on _____ after all attempts to negotiate or follow other internal procedures the dispute remains unresolved.

2. DEGREE OF LATENESS

2.1. The Applicant signed the referral form on _____

2.2. The referral is _____ days late.

3. REASONS FOR LATENESS

The reason/s why the Applicant referred the matter late is:

4. PROSPECTS OF SUCCESS

Applicant believes that he/she has good cause because:

5. PREJUDICE

As the Applicant (employee), if condonation is not granted, I will be prejudiced because

6. GENERAL [ANY OTHER RELEVANT INFORMATION]

APPLICANT/REFERING PARTY

Signed before me on _____ at _____ by the deponent who acknowledges that he/she knows and understands the contents of the affidavit, has no objection to taking the oath / affirmation and considers it binding upon his/her conscience.

COMMISSIONER OF OATHS: _____
NAME: _____
CAPACITY: _____
ADDRESS: _____



DPRC FORM – 3 NOTICE OF SET DOWN OF HEARING

Matter No: _____

In the matter between

Referring Party/Applicant : _____

And

Respondent : _____

TAKE NOTICE THAT that the hearing of the above matter has been set down for hearing on _____ at _____ or thereafter as soon as the Chairperson may order.

SIGNED at _____ on the _____ day of _____

Secretary (Commission)

*(Name)

*(Address)

TO: Referring Party/Applicant
(Address)

AND TO: Respondent
(Address)



DPRC FORM 4: SUBPOENA

SUBPOENA IN TERMS OF RULE 17 OF THE DISPUTE PREVENTION AND RESOLUTION COMMISSION

TO

(Name and address of person subpoenaed)

You are required to appear before the Dispute Prevention and Resolution Commission for SAEF at

(Address)

on **(date)** _____ at **(time)** _____ and on any subsequent day to which the proceedings may be postponed.

You are subpoenaed in terms of Rule 17 of the Dispute Prevention and Resolution Commission for SAEF:

i.e. for questioning, to produce any book, document or object, to give evidence

Concerning the matter between

(Name of Referring Party)

And

(Respondent)

Kindly note that in terms of the powers vested in SAEF pursuant to its Constitution, a witness subpoenaed to attend a hearing of the Commission, who fails to attend or to remain in attendance at such hearing until excused by the Commission, shall be guilty of misconduct.

Further note that If any witness, after being subpoenaed, present at the hearing is required to give evidence at such hearing and refuse to answer any question(s) put to him or her, or refuses or fails to produce any book, paper or document required to be produced by him or her ,the Commission may in summary manner enquire into such refusal or failure, and unless the person refusing or failing has a just excuse for the refusal or failure, shall impose a fine not exceeding R 15 000,00 [fifteen thousand rands] over and above any sentence it deems appropriate in accordance with the Constitution and these rules.

Signed by the Chairperson or Secretary of the Commission

NAME: _____

DATE: _____

PLACE: _____

NB: if person signed in another capacity, such capacity must be stated.



DPRC FORM - 5 NOTICE OF POSTPONEMENT OF HEARING

Matter No: _____

In the matter between

Referring Party/Applicant : _____

And

Respondent : _____

TAKE NOTICE THAT that the hearing of the above matter has been postponed to be heard on _____ at _____ or thereafter as soon as the Commission may order.

SIGNED at _____ on the _____ day of _____

Secretary (Commission)

*(Name)

*(Address)

TO: Referring Party/Applicant

(Address)

AND TO: Respondent

(Address)

SCHEDULE 1 – WITNESS FEES

1. **Subsistence allowance**

- (a) A witness is entitled to the following allowances for each 24 hours or part thereof for which the witness is, for the purpose of the attendance of the proceeding of the Commission, absent from his or her residence or place of employment:
- (b) the reasonable actual expenses if it is necessary to hire accommodation for the night;
- (c) (i) R50; or
- (ii) the reasonable actual expenses incurred for meals on submission of proof of the expenses to the satisfaction of the Commission.
- (d) The allowances provided for in sub rule (1) are payable for the full period for which the witness is absent from his or her residence or place of sojourn for purposes of attending the hearing of the Commission.
- (e) In calculating the period of absence for purposes of sub rule (1) and (2), a witness is allowed 24 hours for each distance of 600 kilometres or part thereof travelled.
- (f) The allowance provided for in sub rule (1) is not payable if the fare of a witness includes the cost of meals and accommodation.

2. **Transport and travelling expenses**

- (a) A witness may, subject to sub rule (2) make use of public or private transport and is entitled to the following allowances:
 - (i) In the case of private transport -92c per kilometre
 - (ii) in the case of a motorcycle; or
 - (iii) R1,30 per kilometre in the case of a motor vehicle, calculated along the shortest route; or
 - (iv) in the case of public transport, an amount equal to the fare for the least expensive transport along the shortest route.
- (b) A witness may only use air transport if the Secretary of the Commission-
 - (i) is satisfied that the use thereof is warranted; and
 - (ii) has approved that the witness may make use of air transport.
- (c) On satisfactory proof having been produced, a witness is entitled to be reimbursed for his or her reasonable actual expenses incurred in respect of parking and toll fees.

3. **Income forfeited**

On satisfactory proof having been produced that a witness has forfeited income as a result of his or her attendance of a hearing of the Commission, he or she is, in addition to the allowance that may be payable to the witness in terms of rule 2, entitled to an allowance equal to the actual amount of income so forfeited, subject to a maximum of R1500, 00per day.



DC FORM 1: NOTICE OF DISCIPLINARY HEARING

NOTICE OF DISCIPLINARY HEARING IN OF RULE 2 OF THE DISCIPLINARY CODE

Date: _____

Time: _____

To: _____

You are hereby notified of a disciplinary enquiry that will be held on:

Date: _____

Time: _____

Venue: _____

Chairman: _____

ALLEGED OFFENCE/COMPLAINT

Please note that the following allegations have been preferred against you:

Date: _____

Time: _____

Place: _____

Details:

1. Your rights in terms of the disciplinary procedure are, *inter alia*, that:
 - (a) You are entitled to be represented as per the Code, at your cost. Your representative shall not, however, be a lawyer, attorney or advocate, or a witness to the abovementioned alleged charge.
 - (b) You and your representative will be given the opportunity to challenge evidence against you, by cross-examining the witnesses and examining any documents pertaining to the matter.
 - (c) Kindly notify the chairperson at least 2 (two) days before the hearing as to who your representative is, so that the arrangements can be made for his/her attendance. Failure to notify the chairperson will be construed as a waiver of your right. No request for postponement will be entertained by your failure to notify the chairperson of your representative.
 - (d) You or your representative will be entitled to put your case by presenting evidence yourself and by calling your own witnesses to testify at the hearing
 - (e) Failure by yourself to attend the hearing, either in person, or through a representative, shall in no way invalidate the proceedings and the proceedings will commence in your absence. You are required to be present throughout the proceedings.
 - (f) You and your representative will be given the opportunity to challenge the evidence brought against you at the enquiry. You will be allowed to cross-examine the witnesses of SAEF and any documents brought in evidence.
 - (g) You are entitled to an interpreter at your cost.
 - (h) You have the right to present evidence in mitigation.
 - (i) The chairperson of the disciplinary enquiry shall within 7 (seven) days of the date on which the enquiry is completed, inform you of the Commission's findings.
 - (j) The enquiry will be recorded.
 - (k) Should you admit to the charge(s) before or during the disciplinary hearing, it shall be deemed that you are guilty of the charge(s).
 - (l) Should a verdict of guilty be arrived at by the Commission, you will then be entitled to give evidence in mitigation of sentence, concerning your personal circumstances, length of service, previous disciplinary record. You are entitled to a reasonable opportunity to prepare your defence.

Yours faithfully

Chairperson

I hereby certify that I have received a copy of this notification, and that I understand the allegations/charges against me, and I understand that the allegations are of a serious nature.

Received by: _____

Signature: _____

Date: _____

Time: _____