

**RULES**  
**OF**  
**THE RECORDING INDUSTRY OF SOUTH AFRICA**

**Adopted by the Members of the Association in General Meeting  
on the 20th of November 1995**

**1 Definitions and General**

1.1 In these RULES, unless the context indicates otherwise, words in capital letters listed below have the following meanings -

APPEAL BOARD - an appeal board constituted and appointed in terms of the MEMORANDUM AND ARTICLES OF ASSOCIATION

RISA - The Recording Industry of South Africa

CODE OF CONDUCT - the code of conduct of RISA made by Executive in terms of the MEMORANDUM AND ARTICLES OF ASSOCIATION and as amended from time to time

DAY - shall, except where the context otherwise indicates, include Saturdays, Sundays and public holidays and shall be calculated by the exclusion of the first day and the inclusion of the last

EXECUTIVE - a properly constituted body of the executive of RISA

GENERAL MANAGER - the general manager of RISA or any individual or MEMBER duly appointed by the EXECUTIVE to act for him

ENQUIRY - an inquiry into and/or investigation of and/or adjudication upon any breach or contravention of the MEMORANDUM AND ARTICLES OF ASSOCIATION, CODE OF CONDUCT and/or the RULES by an ENQUIRY BOARD

ENQUIRY BOARD - an enquiry board constituted and appointed in terms of the MEMORANDUM AND ARTICLES OF ASSOCIATION

ENQUIRY PROCEEDINGS - the proceedings before and by an ENQUIRY BOARD

INDUSTRY - the business of producing, manufacturing or distributing records (being any direct or indirect means of sound reproduction, whether now known or hereafter developed, including gramophone records, cassette tapes or tapes in any other form or compact discs) in South Africa

MEMBER - a member of RISA including the nominated and registered representatives of a firm or of a member who is not a natural MEMBER

MEMORANDUM AND ARTICLES OF ASSOCIATION - the Memorandum and Articles of Association of RISA as amended from time to time

RULES - the RULES of RISA made by EXECUTIVE in terms of the MEMORANDUM AND ARTICLES OF ASSOCIATION and as amended from time to time

WRITING - includes a telex or telegram or telefax

## 1.2 General

**In the CODE OF CONDUCT and the RULES, unless inconsistent with the context -**

- 1.2.1 words referring to one gender shall include a reference to the other genders;
  - 1.2.2 words importing the singular shall include the plural and vice versa;
- 1.3 No indulgence granted by RISA, the EXECUTIVE, any APPEAL BOARD, any ENQUIRY BOARD, or the GENERAL MANAGER, to any MEMBER, shall constitute a waiver or abandonment of rights under the MEMORANDUM AND ARTICLES OF ASSOCIATION, CODE OF CONDUCT or the RULES; accordingly RISA, the EXECUTIVE, any APPEAL BOARD, any ENQUIRY BOARD, or the GENERAL MANAGER, shall not be precluded as a consequence of having granted that indulgence, from enforcing or relying on any of the provisions of the MEMORANDUM AND ARTICLES OF ASSOCIATION, CODE OF CONDUCT or the RULES or from exercising any rights against any MEMBER which may have arisen in the past or which may arise in the future.
- 1.4 All acts done in good faith by -
- 1.4.1 the EXECUTIVE, any APPEAL BOARD, or any ENQUIRY BOARD, shall, notwithstanding that it be afterwards discovered that there was some defect in the composition, election or appointment of such body, be as valid as if such body had been duly constituted, elected or appointed.
  - 1.4.2 any member of any APPEAL BOARD or ENQUIRY BOARD, the GENERAL MANAGER, any MANAGER or any RISA official shall, notwithstanding that it be afterwards discovered that there was some defect in the election or appointment of such individual or MEMBER or member of such board, be as valid as if every such individual or MEMBER had been duly elected or appointed.

- 1.5 A MEMBER shall be deemed to have been given proper notice if a communication in WRITING be sent by registered post to his latest address recorded with RISA, and he shall be deemed to have received such notice within 5 DAYS of dispatch.
- 1.6 The English version of the CODE OF CONDUCT and the RULES is the official version.

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- 2.1 ENQUIRY PROCEEDINGS and APPEAL BOARD proceedings shall be recorded either manually or by means of recording equipment.
- 2.2 in the event of the record or part of the record of any ENQUIRY PROCEEDINGS, investigation, or appeal becoming unavailable by reason of theft, destruction, loss or any other cause, the EXECUTIVE may either direct that the matter be heard de novo or from such stage where the portion of the record is not available, or give such instructions for the reconstruction of the record as it deems fit. In the former event members of the prior board or boards may sit again and need not recuse themselves and copies or duplicates of documents or exhibits previously used will be admissible. The record so completed shall be the official record of the matter.

**3 ENQUIRY PROCEEDINGS**

- 3.1 All inquiries, investigations and adjudications into and upon breaches or contraventions of the MEMORANDUM AND ARTICLES OF ASSOCIATION, CODE OF CONDUCT or the RULES by any MEMBER or individual, shall be conducted, undertaken and made by an ENQUIRY BOARD constituted and appointed in terms of the MEMORANDUM AND ARTICLES OF ASSOCIATION.
- 3.2 an ENQUIRY BOARD may order any MEMBER to attend ENQUIRY PROCEEDINGS. Any MEMBER so ordered shall comply with such order and shall remain in attendance until excused.
- 3.3 In addition to any other penalties which may be imposed in terms of the RULES for failing to attend or remain in attendance at ENQUIRY PROCEEDINGS, the ENQUIRY may be proceeded with in the absence of a MEMBER required to attend.

**4 Powers of an ENQUIRY BOARD**

**4.1 Scope**

An ENQUIRY BOARD shall have the power to inquire into, investigate, and adjudicate upon any alleged breach or contravention of the MEMORANDUM AND ARTICLES OF ASSOCIATION, CODE OF CONDUCT or any of the RULES.

## **4.2 Penalties**

An ENQUIRY BOARD shall, in cases of a breach or contravention of this MEMORANDUM AND ARTICLES OF ASSOCIATION, CODE OF CONDUCT or any of the RULES, have the power to impose on a MEMBER, any one or more of the following penalties :

- 4.1.1 a reprimand;
- 4.1.2 a caution;
- 4.1.3 a warning;
- 4.1.4 a fine;
- 4.1.5 expulsion;
- 4.1.6 such other penalty as it may deem fit.

## **5 Composition of ENQUIRY BOARDS**

An ENQUIRY BOARD shall -

- 5.1 consist of such members as are appointed in terms of the MEMORANDUM AND ARTICLES OF ASSOCIATION.
- 5.2 when it comprises more than one MEMBER, appoint one of its number to act as chairman, who shall have a casting vote in addition to his deliberative vote.
- 5.3 have the power, in its sole discretion, to co-opt any MEMBER or individual (including an individual who is not subject to the RULES) to sit on such enquiry board where it considers that such MEMBER or individual will be able to assist in the enquiry and in the deliberations of the ENQUIRY BOARD.

## **6 Procedures for inquiries**

- 6.1 Save where otherwise provided in the RULES, an ENQUIRY BOARD shall adopt such procedures and formalities as it in its sole discretion, may from time to time determine.
- 6.2 An ENQUIRY BOARD shall not be obliged to provide any MEMBER with any proof of its authority in relation to any ENQUIRY.
- 6.3 An ENQUIRY BOARD shall not be obliged to give reasons for any penalty imposed or any finding, decision or discretion made or exercised by it.
- 6.4 An ENQUIRY BOARD may, after a hearing, in its sole discretion, without giving any reasons, postpone or adjourn any ENQUIRY PROCEEDINGS for such periods as they deem fit.

## **7 Attendance and representation at ENQUIRY PROCEEDINGS**

- 7.1 Any MEMBER required to attend ENQUIRY PROCEEDINGS shall be informed, in WRITING, of the venue, date and time the ENQUIRY PROCEEDINGS will be held.
- 7.2 No MEMBER shall be entitled to legal representation or other assistance (other than that of a translator when necessary) at ENQUIRY PROCEEDINGS.
- 7.3 During any postponement or adjournment of ENQUIRY PROCEEDINGS, a MEMBER appearing before an ENQUIRY BOARD shall be granted reasonable access during office hours to such portion of the typed record as is available at time. The MEMBER concerned may, on payment of the prescribed fees and charges, be supplied with a copy of so much of the record as is typed and available at the time.
- 7.4 The ENQUIRY BOARD may direct that all or portion of the actual costs and expenses incurred by RISA in connection with ENQUIRY PROCEEDINGS shall be paid by such MEMBER or MEMBERS as it may deem fit and the amount determined shall final and binding on the MEMBER or MEMBERS concerned.

## **8 Appeals**

- 8.1 An appeal shall lie to an APPEAL BOARD, against any finding, penalty or decision made by an ENQUIRY BOARD.
- 8.2 All APPEAL BOARDS shall be constituted and appointed as set out in the MEMORANDUM AND ARTICLES OF ASSOCIATION.
- 8.3 Should the number of members of an APPEAL BOARD fall below the quorum stipulated in the MEMORANDUM AND ARTICLES OF ASSOCIATION then the proceedings before that board shall be a nullity and another APPEAL BOARD may be constituted to hear the appeal anew.
- 8.4 An APPEAL BOARD, on hearing an appeal, shall have the power set out in the MEMORANDUM AND ARTICLES OF ASSOCIATION as follows:
  - 8.4.1 to allow the appeal;
  - 8.4.2 to dismiss the appeal;
  - 8.4.3 to substitute any finding or decision as it deems fit, or substitute such penalty as it deems fit, including any increased penalty;
  - 8.4.4 to make such order as in its opinion the circumstances may require including an order to remit the matter for the hearing of further evidence or an order for the hearing of an ENQUIRY anew;

- 8.4.5 to hear further evidence or receive any documents on such terms and conditions as it in its discretion may decide;
  - 8.4.5 to direct the ENQUIRY BOARD to determine a matter on an alternative charge or basis;
  - 8.4.6 to order a MEMBER to pay all or a portion of the actual costs and expenses incurred by RISA in connection with an appeal, in addition to any other penalty, if it is of the opinion that the appeal is unwarranted or unreasonable and in such event the prescribed fee shall be automatically forfeited;
  - 8.4.7 to interpret the meaning, effect and intent of any of the RULES;
  - 8.4.8 to make such rulings as it in its sole discretion determines.
- 8.5 Any MEMBER who wishes to appeal, ("the appellant"), shall give notice in WRITING of his intention to appeal within 5 DAYS from the date on which the finding, penalty or decision to be appealed against has been communicated to him. The Notice of Intention to Appeal shall be addressed to the GENERAL MANAGER and shall be delivered within the prescribed time limit to the GENERAL MANAGER.
- 8.6 Any party to an appeal may, within 5 DAY period for the lodging of a Notice of Intention to Appeal apply to the GENERAL MANAGER for a copy of the record of the ENQUIRY PROCEEDINGS to which the appeal relates and shall be furnished with a copy thereof as soon as it is available.
- 8.7 An appellant shall lodge, with the GENERAL MANAGER, in WRITING, a Notice of Appeal within 10 DAYS, from the date on which he is notified that the transcript of the ENQUIRY PROCEEDINGS is available.
- 8.8 The Notice of Appeal shall set out -
- the penalty, decision or finding appealed against; and  
the grounds of such appeal.
- 8.9 On good cause shown, the period for lodging a Notice of Appeal may be extended by the GENERAL MANAGER, on receipt of a written application from the appellant, which application shall be lodged within the time period allowed for the lodging of the Notice of Appeal.
- 8.10 Should a Notice of Intention to Appeal or notice of appeal not be lodged within the prescribed time periods, the right of appeal or the appeal as the case may be shall lapse; provided that the GENERAL MANAGER may, on written application to him, in his sole discretion and on such terms and conditions as he may determine, condone the late lodging and reinstate any appeal which has lapsed.

- 8.11 Where an appeal has been lodged, the ENQUIRY BOARD may within 10 DAYS after being provided with a copy of the appellant's Notice of Appeal, lodge a written reply thereto with the GENERAL MANAGER. A copy of such reply, in if any, shall be furnished to the appellant.
- 8.12 Save where otherwise provided in the RULES, an APPEAL BOARD, when hearing an appeal, shall adopt such procedures as it, in its sole discretion, may determine.
- 8.13 An APPEAL BOARD shall determine the place, date and time for the hearing of any appeal and shall notify all interested parties accordingly.
- 8.14 The appellant shall have the right to appear before an APPEAL BOARD to argue his appeal and may be represented by a practicing attorney and/or practicing advocate. Similarly, the ENQUIRY BOARD or its representatives shall have the right to appear before an APPEAL BOARD and may be represented by a practicing attorney and/or practicing advocate. Should any appellant or respondent not appear at the hearing of an appeal, such appeal may be proceeded with in his absence.
- 8.15 The appellant and respondent (and their respective legal representatives), shall be bound by and confined to the record of the ENQUIRY PROCEEDINGS and shall not be entitled to introduce new evidence save with the permission of the APPEAL BOARD, which may determine such matter in its sole discretion and on such terms and conditions as it may deem fit.
- 8.16 An APPEAL BOARD may order the appellant and any other MEMBER to appear before it when the appeal is considered. Should any appellant or any other MEMBER not appear at an appeal at that time ordered, the appeal may be proceeded with in his absence and the APPEAL BOARD may impose such penalty as it deems fit for such failure to so appear.
- 8.17 An APPEAL BOARD may require any MEMBER to attend the hearing of an appeal.
- 8.18 No Notice of Appeal may be withdrawn without the consent of the GENERAL MANAGER.
- 8.19 The operation of the finding, penalty or decision of the ENQUIRY BOARD concerned shall be suspended -
- 8.19.1 during the 5 day period referred to in RULE 8.5; and/or
- 8.19.2 when a Notice of Intention to Appeal has been lodged pending the final determination of such appeal by an APPEAL BOARD or the lapsing of the appeal or the withdrawal thereof.

8.20 Where a MEMBER intends to be legally represented at an appeal, he shall give notice thereof to the GENERAL MANAGER at the time he lodges his notice of appeal. Where an ENQUIRY BOARD intends to be legally represented at an appeal, it shall give notice thereof to the GENERAL MANAGER within the time for the lodging of a written reply to the notice of appeal.

8.21 The APPEAL BOARD shall not be obliged to provide any MEMBER with any proof of their authority to act in relation to any appeal.

8.22 The APPEAL BOARD shall not be obliged to provide any MEMBER with any proof of their authority to act in relation to any appeal.

8.22 Notwithstanding anything to the contrary in the RULES, the APPEAL BOARD may, in its sole discretion, without hearing any MEMBER or individual and without giving any reasons, postpone or adjourn any appeal for such periods as it deems fit.

## **9 Costs**

RISA shall not be liable for any expenses incurred by any MEMBER arising out of and/or relating to an ENQUIRY or appeal.

## **10 Contravention of rules**

Any MEMBER who fails to comply with, or contravenes any provision of the MEMORANDUM AND ARTICLES OF ASSOCIATION, the CODE OF CONDUCT, or the RULES shall be guilty of an offence.

## **11 Attempts**

Any MEMBER who attempts to commit any offence in terms of the MEMORANDUM AND ARTICLES OF ASSOCIATION, the CODE OF CONDUCT, or the RULES shall be guilty of an offence and shall be liable, on conviction, to the same penalties as are competent for a contravention of the MEMORANDUM AND ARTICLES OF ASSOCIATION, the CODE OF CONDUCT or the RULE itself.

## **12 Accomplices**

Any MEMBER who assists any other MEMBER to commit an offence or is a party to or incites the commission of an offence, whether directly or indirectly and whether before or after its commission, shall be guilty of an offence and shall be liable, on conviction to the same penalties as are competent for a contravention of the MEMORANDUM AND ARTICLES OF ASSOCIATION, the CODE OF CONDUCT or the RULE itself.



**13 Prohibited practices**

**Without in any way detracting for the provisions of the MEMORANDUM AND ARTICLES OF ASSOCIATION, the CODE OF CONDUCT or the RULES, no MEMBER shall -**

- 13.1 interfere with, tamper with or intimidate anybody (including any witness) or anything (where applicable) involved in or concerned with any enquiry, investigation, or appeal, held or to be held in terms of the MEMORANDUM AND ARTICLES OF ASSOCIATION, the CODE OF CONDUCT or the RULES;
- 13.2 mislead the EXECUTIVE or any board, appointed in terms of the MEMORANDUM AND ARTICLES OF ASSOCIATION, the CODE OF CONDUCT or the RULES;
- 13.3 have any dealings, directly or indirectly, with any MEMBER who has been expelled, except in the course of his trade or profession or due to family relationships unconnected with the INDUSTRY;
- 13.4 be a member of any other association with similar objects to RISA which is not recognised by the EXECUTIVE; or
- 13.5 fail to attend or remain at any ENQUIRY, ENQUIRY PROCEEDINGS, or APPEALS or investigation when required to do so in terms of the RULES.