



**The Colleges of Medicine
of South Africa
(CMSA)**

Memorandum of Incorporation

April 2014

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- A. The name of the company is The Colleges of Medicine of South Africa NPC (CMSA).
- B. The registered office of the CMSA shall at all times be situated in South Africa.
- C. The CMSA is a non-profit company with members, with the following objects and powers :
 - (1) to encourage the study of medicine and dentistry; to promote the highest degree of skill and efficiency in their practice; and, in and about all the foregoing, to cultivate and maintain the highest ethical standards and professional conduct;
 - (2) to promote and encourage and/or to provide facilities for teaching, training and instruction in medicine and dentistry in so far as the Senate of the CMSA may from time to time regard as necessary or expedient;
 - (3) to promote and encourage medical and dental research;
 - (4) to conduct examinations of candidates for admission to the CMSA and/or such other examinations in the various branches of medicine and dentistry as may from time to time be deemed appropriate;
 - (5) to grant diplomas, certificates or other equivalent recognition to medical and dental practitioners having special knowledge in one or other branch of medicine and dentistry: provided that no diploma, certificate or other equivalent recognition shall be granted to any person who has not attained by examination or other test the prescribed standard of proficiency unless the Senate of the CMSA, after due enquiry and investigation, deems such person to possess the requisite qualifications for such diploma or certificate;
 - (6) to make and wherever desirable to rescind, alter or amend the Mol and/or the Rules for regulating any matters connected with the admission to the CMSA of any member or the election of any person or member to fellowship of, or other status in, the CMSA;
 - (7) to admit to membership of the CMSA and/or such other status therein such persons as shall be eligible in accordance with the Mol and/or the Rules of the CMSA for the time being and to conform thereto;

- (8) to bring together members of the CMSA periodically for scientific discussion and practical demonstration;
- (9) to take all such steps and adopt all such lawful ways and means as are calculated to promote the honour of the medical and dental profession and the interests of medicine and dentistry;
- (10) to provide, establish and maintain offices, examination halls, lecture rooms, libraries and museums, with all requisite equipment, and to institute and provide such courses or lectures and demonstrations as may be deemed desirable;
- (11) to acquire by purchase, donation or otherwise a library of scientific works and to maintain and from time to time extend and improve such library;
- (12) to acquire, establish, print and publish books, magazines, periodicals, newspapers, leaflets, or other literary or scientific works as may be deemed expedient in the interests of the CMSA or as may be deemed desirable for the promotion of its objects;
- (13) to distribute among the members information on all matters affecting medicine or dentistry and to establish, print, publish, issue and circulate such papers, journals, magazines, books, periodicals, circulars, calendars and publications as may seem conducive to any of these objects or in any way beneficial to the CMSA or its members;
- (14) to accept any gift, endowment or bequest made to the CMSA generally or for the purpose of any specific object and to carry out any trusts attached to any such gift, endowment or bequest;
- (15) to undertake and execute any trusts which may lawfully be undertaken by the CMSA and may be conducive to the attainment of its objects;
- (16) to purchase, take on lease, exchange, hire or otherwise acquire any real, personal, movable and/or immovable property, rights, interests or privileges necessary or convenient for the purpose of the CMSA;
- (17) to sell, dispose of, exchange, hire, mortgage, charge, let, deal with, or turn to account, any of the property and rights of the CMSA, as may from time to time be considered expedient or desirable in the interests of the CMSA;
- (18) to borrow, or raise or secure the payment of money without limitation as to amount, in such manner, on such terms and conditions and upon such security as may be determined, and in particular by pledge, mortgage, hypothecation and/or by debentures or debenture stock, perpetual or otherwise, charged upon all or any of the property of the CMSA (both present and future) personal, real, movable and/or immovable and to purchase, redeem or pay off any such securities;

- (19) to invest the moneys of the CMSA not immediately required for the purpose thereof in or upon such investments, securities or property as may be thought desirable, provided that funds available for investment may only be invested with a financial institution as defined in section 1 of the Financial Services Board Act, 1990 (Act No 97 of 1990) or in securities listed on a stock exchange as defined in the Stock Exchanges Control Act, 1985 (Act No 1 of 1985);
- (20) to draw, make, accept, endorse, execute and issue promissory notes, bills of exchange, and other negotiable or transferable instruments;
- (21) to establish and support or aid in the establishment and support of any charitable or benevolent associations or institutions connected with the purposes of the CMSA, or calculated to further its objects, to grant pensions to ex-employees of the CMSA, and to subscribe or guarantee money for charitable or benevolent purposes in any way connected with the purposes of the CMSA, or calculated to further its objects, and to co-operate with any associations or institutions formed for purposes in any way connected with the purposes of the CMSA;
- (22) to delegate all or any of its powers to the Senate, the Board or any committee or committees consisting of one or more members;
- (23) to pay out of the funds of the CMSA all costs, charges and expenses preliminary and incidental to the promotion, formation, establishment, registration and advertising of the CMSA;
- (24) to promote, form or establish separate divisions, colleges, classes or groups within the CMSA in so far as the Senate may from time to time regard such action as being necessary or expedient;
- (25) if and whenever considered advisable, to apply or petition for, or promote any legislation for the purposes of the CMSA, or for the re-incorporation of all or a particular section or sections of the members thereof, or for continuing and expanding the work thereof;
- (26) to promote or oppose any legislation or other measures affecting any matters connected with medicine or dentistry as may be deemed expedient in the interests of the CMSA;
- (27) in so far as may be found to be consistent with law, to promote or assist in the promotion of any company, association or college for or with any purpose or objects akin to the objects of the CMSA and to effect or assist in effecting the incorporation of such company, association or college under the Act or any other law;
- (28) in so far as may be found to be consistent with law to promote, form and/or to be interested in any other company, association or college from time to time whose objects shall include the acquisition and taking

over of all or any of the property, rights, interests and liabilities of the CMSA and to transfer to any such company, association or college any property, rights, interests and liabilities of the CMSA and to subsidise or otherwise assist such company, association or college; and

- (29) to do all the foregoing and such other lawful things as may be incidental or conducive to the attainment, promotion and/or carrying out of the foregoing objects or any of them.

Provided always that all or any of the foregoing shall be done, not for pecuniary profit, but for the benefit of humanity and that the CMSA shall not support with its funds, any object or endeavour to impose on or to procure to be observed by any person any regulation, restriction or condition which, if an object of the CMSA, would make it a trade union.

- D. The CMSA shall apply all of its assets and income, however derived, to advance its stated objects, as set out in this Mol and, subject to the foregoing and paragraph 19 above, the CMSA may acquire and hold securities issued by a profit company or directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to its stated objects.
- E. The CMSA shall not, directly or indirectly, pay or make available for personal benefit any portion of its income, assets or funds, or transfer any of its assets or funds, regardless how the income, assets or funds were derived, to any person who is or was an incorporator of the CMSA, or who is a member, Senator or Director, or person appointing a Senator or Director, official or donor of the CMSA, except –
- (1) as reasonable –
 - (i) remuneration for goods delivered or services rendered to, or at the direction of, the CMSA; or
 - (ii) payment of, or reimbursement for, expenses incurred to advance a stated object of the CMSA;
 - (2) as a payment of an amount due and payable by the CMSA in terms of a *bona fide* agreement between the CMSA and that person or another;
 - (3) as a payment in respect of any rights of that person, to the extent that such rights are administered by the CMSA in order to advance a stated object of the CMSA; or
 - (4) in respect of any legal obligation binding on the CMSA.
- F. Despite any provision in any law, agreement or this Mol to the contrary, -
- (1) upon the winding-up or dissolution of the CMSA, no past or present member, Senator or Director, or person appointing a Senator or Director of the CMSA, is entitled to any part of the net value of the CMSA after its obligations and liabilities have been satisfied;

- (2) upon the winding-up or dissolution of the CMSA, the entire net value of the CMSA must be distributed to one or more non-profit companies, registered external non-profit companies carrying on activities within South Africa, voluntary associations or non-profit trusts having objects similar to its main object and which are tax exempt; and as determined by its members, its Senators or its Directors, at or immediately before the time of its dissolution; or by the court, if the members, Senators or Directors fail to make such a determination;
 - (3) the CMSA shall not carry on any business undertaking or trading activity that is contrary to its core activities and in competition with a taxpaying entity;
 - (4) the CMSA shall not carry on any profit making activities, or participate in any business, profession or occupation carried on by any of its members, or provide financial assistance, premises, continuous service or facilities to its members for the purpose of carrying on any business, profession or occupation by them; and
 - (5) any amendments to this Mol shall be submitted to the Commissioner for the South African Revenue Service within 3 months of such amendments having been effected.
- G. The receipts by or accruals to the CMSA are exempt from income tax in terms of section 10(1)(d)(iv)(bb) and the donations by or to the CMSA are exempt from donations tax in terms of section 56(1)(h) of the Income Tax Act, 1962 (Act No 58 of 1962). However, such exemptions are subject to the following conditions:
- (1) Income tax returns must be submitted to the Tax Exemption Unit of the South African revenue Service annually, together with financial statements and supporting documentation showing how income has been expended; and
 - (2) the aforesaid exemptions will be reviewed once regulations and/or possible new legislation relating to section 10(1)(d)(iii) and (iv) of the Income Tax Act, 1962 (Act No 58 of 1962) come into operation.

ADOPTION OF MEMORANDUM OF INCORPORATION

The CMSA was incorporated in 1955 as a company limited by guarantee and not having a share capital in accordance with the Companies Act of 1926. The original Memorandum of Association and Articles of Association, which this Mol replaces in its entirety, were adopted on 27 May 1955 by the following incorporators of the CMSA:

FULL NAME OF INCORPORATOR	OCUPATION OF INCORPORATOR
Lionel Bernard Goldschmidt	Urologist
Ian William Stuart Sichel	Ophthalmologist
Arnold Hugh Tonkin	Medical Practitioner
Marcus Cole Rous	Specialist Surgeon
Robert Lane Forsyth	Specialist Surgeon
Arthur Landau	Specialist Physician
David Pieter Marais	Specialist Physician
Hendrik Muller	Specialist Physician

INTERPRETATION

1. (1) In this Mol, the following words and expressions have the meanings hereinafter assigned to them respectively:

“**Act**” means the Companies Act, 71 of 2008, as amended from time to time;

“**Associates**” mean persons who possess qualifications entitling them to be registered with the HPCSA and who were elected as Associates at the discretion of the Senate in accordance with the provisions of paragraphs 16 to 17;

“**Associate Founders**” mean the historical category of members who were elected as Associate Founders in accordance with the provisions of paragraph 10;

“**Board**” means the board of Directors of the CMSA from time to time;

“**business day**” means any day of the week, excluding a Saturday, Sunday or South African public holiday;

“**calendar day**” means any day of the week, including a Saturday, Sunday or South African public holiday;

“**CEO**” means the chief executive officer of the CMSA from time to time, being an employee of the CMSA and an *ex officio* director of the CMSA;

“**Certificants**” mean persons who possess qualifications entitling them to be registered with the HPCSA, who have been registered with that body for such period as the Senate may from time to time determine and who have passed such relevant examinations of the CMSA as may be prescribed from time to time by the Senate;

“**CMSA**” means The Colleges of Medicine of South Africa NPC;

“company secretary” means the company secretary of the CMSA as contemplated in the Act, which position shall *ex officio* be served by the CEO of the CMSA;

“Constituent College” means a college referred to in paragraph 30;

“Council” means a council of a Constituent College in accordance with the Rules;

"Diplomates" mean persons who possess qualifications entitling them to be registered with the HPCSA, who have been registered with that body for such period as the Senate may from time to time determine and who have passed such relevant examinations of the CMSA as may be prescribed from time to time by the Senate;

“Director” means the persons entitled to serve as directors of the CMSA in accordance with paragraph 73(1);

“extraordinary meeting” means a meeting of members in accordance with paragraph 37;

"Fellows" mean persons who possess qualifications entitling them to be registered with the HPCSA, who have been registered with that body for such period as the Senate may from time to time determine and who have passed such relevant Fellowship examinations of the CMSA as may be prescribed from time to time by the Senate;

“Fellows *ad eundem*” mean persons who are admitted to Fellowship *ad eundem* of the CMSA *honoris causa* in accordance with paragraphs 22 to 24;

“Fellows by peer review” mean persons who possess qualifications entitling them to be registered with the HPCSA, who have been registered with that body for such period as the Senate may from time to time determine and who have fulfilled the criteria laid down by the Senate for admission by peer review without an examination;

"Founders" mean the historical category of members who were elected as Founders in accordance with the provisions of paragraph 9;

"Honorary Fellows" mean persons who are admitted to Fellowship in the CMSA *honoris causa* in accordance with paragraphs 22 to 24;

“honorary officers” mean the honorary officers of the CMSA as specified in paragraph 54(1);

“HPCSA” means the Health Professionals Council of South Africa, a statutory body established in terms of the Health Professionals Council Act, 56 of 1974, or any body which may replace it from time to time;

"**in writing**" and "**writing**" shall include printing, lithography and other modes of representing or reproducing words in visible form;

"**Member**" (commencing with a capital "M") means the historical category of members who were elected in accordance with the provisions of paragraph 11;

"**member**" (commencing with a small "m") means a member of the CMSA as defined in paragraph 6 and categorised in paragraph 8 except when used in connection with membership of the Senate or of any Council or committee;

"**Mol**" means the Memorandum of Incorporation of the CMSA as set out in this document;

"**Office**" means the registered office of the CMSA;

"**officer**" means the honorary officers of the CMSA as well as any salaried officer of the CMSA from time to time;

"**ordinary meeting**" means a meeting of members in accordance with paragraph 35;

"**Register**" means the register of members of the CMSA;

"**Regulations**" mean the regulations to the Act, published under GN R351 in Government Gazette 34239 on 26 April 2011;

"**Rules**" mean the Rules referred to in paragraph 3, as amended from time to time;

"**sectional meeting**" means the meetings convened in accordance with paragraph 38;

"**Senators**" mean the persons categorised in paragraph 51(1) as members of the Senate from time to time;

"**Senate**" means the body of Senators from time to time;

"**triennium**" shall mean a period of three years calculated with effect from the ordinary meeting held in October 1971 (ie the first triennium would commence in 1971, the triennium thereafter would commence in 1974 and thereafter in 1977 and so forth);

"**year**" means a calendar year, and "**month**" means a period of thirty calendar days.

- (2) Words importing only the singular include the plural number, and vice versa.
- (3) Words importing only the masculine gender include the feminine gender, and vice versa.

- (4) Words importing persons shall include juristic persons.
- (5) The marginal or head notes appearing in the Mol shall not be taken into account in the interpretation of the Mol, the said notes having merely been added for convenience or reference.
- (6) A reference to a section by number refers to the corresponding section of the Act.
- (7) A reference to a paragraph by number refers to the corresponding paragraph of the Mol.
- (8) Words that are defined in the Act bear the same meaning in this Mol as in that Act.

INCORPORATION

2. (1) The CMSA is incorporated as a non-profit company, as defined in the Act.
- (2) The CMSA is incorporated in accordance with, and governed by:
 - (a) the unalterable provisions of the Act that are applicable to non-profit companies;
 - (b) the alterable provisions of the Act that are applicable to non-profit companies, subject to any limitation, extension, variation or substitution set out in this Mol;
 - (c) the provisions of this Mol; and
 - (d) the provisions of the Rules.

MOI AND RULES

3. (1) This Mol may be altered or amended in the manner set out in section 16 and 17 of the Act, subject to the following provisions:
 - (a) for a special resolution to amend the Mol to be approved by the members, such resolution must be supported by at least 75% of the voting rights exercised on the resolution;
 - (b) a members meeting for purposes of adopting a special resolution to amend the Mol may not begin until sufficient persons are present at the meeting to exercise, in aggregate, at least 0.25% of all the voting rights that are entitled to be exercised in respect of the special resolution to be adopted; and

- (c) the special resolution to amend the Mol shall comply with the provisions of the Act and the Mol applicable to members meetings and the adoption of special resolutions.
- (2) The authority of the Board to make or amend any Rules for the CMSA, as contemplated in section 15(3) to (5) of the Act, is limited or restricted to the extent provided for in this paragraph 3.
 - (3) Save so far as determined or provided by the Act or by this Mol:
 - (a) the constitution and governance of the CMSA, the rights and obligations of the members and the appointment, duties, powers and privileges of the Senate, the Board and all officers of the CMSA, and of all Councils, committees and subcommittees of the CMSA, shall be such as may from time to time be prescribed or determined by or in accordance with the Rules; and
 - (b) the Rules may from time to time be added to, amended or altered or repealed by the Board in the manner prescribed in the Rules: provided that no Rule shall be made under this power:
 - (i) which would amount to an addition to or alteration of this Mol as could only legally be made by special resolution; and
 - (ii) without the prior written approval of the Senate.
 - (4) The Board must publish any Rules made in terms of section 15 (3) to (5) of the Act and any proposed alterations to the Mol and the Rules to be made in terms of section 17 (1) of the Act. The proposed alterations to the Rules or the Mol shall be made available to each Director and Senator and shall be published on the website of the CMSA for the information of the members.

OPTIONAL PROVISIONS OF THE ACT WHICH DO APPLY

- 4. (1) Except as otherwise provided for herein, the CMSA does not elect, in terms of section 34 (2) of the Act, to comply voluntarily with the provisions of Chapter 3 of the Act. However, the CMSA shall comply with Chapter 3 of the Act to the extent required in terms of the Act and the Regulations.
- (2) Notwithstanding the foregoing and in accordance with sections 34(2) and 84(1)(c)(ii) of the Act and paragraphs 98 and 100 below, the CMSA shall appoint a company secretary and an auditor.

MEMBERSHIP

Number of members limited

5. For the purpose of registration and in general unless and until otherwise lawfully determined, the number of members of the CMSA is to be taken as being unlimited.

Definition of members

6. The members of the CMSA shall be those persons who are admitted to a category of membership of the CMSA in accordance with this Mol and the Rules and the names and addresses of such members shall be entered in the Register.

Voting rights of members

7. The CMSA shall have two classes of members, being voting and non-voting members. Each of the voting members shall have an equal vote in any matter to be decided by the members of the CMSA.

Categories of members

8. (1) The CMSA comprises the following historical categories of voting members:
 - (a) Founders;
 - (b) Associate Founders; and
 - (c) Members.
- (2) The CMSA comprises the following ordinary categories of voting members:
 - (a) Fellows;
 - (b) Fellows by peer review;
 - (c) Associates;
 - (d) Certificants; and
 - (e) Diplomates.
- (3) The non-voting members of the CMSA shall comprise the Honorary Fellows and Fellows *ad eundem* referred to in paragraph 22(2).
- (4) The historical categories of voting members as referred to in paragraph 8(1) are categories of members to which persons were previously enrolled but which categories are presently referred to as historical categories. Members who have previously been categorised as Founders, Associate Founders and Members shall continue to hold all rights and obligations of members as provided for in this Mol but no

persons shall be enrolled as Founders, Associate Founders or Members after the date upon which this Mol is adopted and registered.

- (5) The ordinary categories of voting members as referred to in paragraph 8(2) shall continue to be categories of members to which persons may be enrolled: provided that such persons qualify for such admission in accordance with the provisions of this Mol and/or the Rules.

Founders

9. Founders refer to the historical category of members:
 - (1) who were found by the Senate to have established the CMSA;
 - (2) possessed the qualifications entitling them to be registered as medical practitioners in South Africa by the predecessor of the HPCSA;
 - (3) whose respective names appear on the printed list described as "List of Founders" prepared for the inaugural meeting of the CMSA held at Johannesburg on 3 and 4 May 1954;
 - (4) who did not withdraw their respective names as Founders prior to the incorporation of the CMSA; and
 - (5) whose names were duly enrolled and remain so enrolled as Founders on the Register.

Associate Founders

10. Associate Founder refers to the historical category of members:
 - (1) who were found by the Senate to possess the qualifications entitling them to be registered with the predecessor of the HPCSA;
 - (2) who were found to be of good character and in good professional standing; and
 - (3) whose names were duly enrolled as Associate Founders during the period prior to 1 January 1982 and remain so enrolled as Associate Founders on the Register.

Members

11. Members refer to the historical category of members:
 - (1) who were found to have satisfied the requirements determined by the Senate and thereby elected by the Senate to be Members of the College of Family Physicians (formerly known as the College of Family Practitioners); and

- (2) whose names were duly enrolled and remain so enrolled as Members on the Register.

Fellows

12. Fellows refer to members whose names were duly enrolled and remain so enrolled as Fellows on the Register.
13. Subject to the provisions of any relevant Rules, the Senate may from time to time elect persons to be Fellows: provided such persons satisfy the following requirements:
 - (1) possess qualifications entitling them to be registered with the HPCSA;
 - (2) are registered with the HPCSA for such period as the Senate may from time to time determine;
 - (3) have passed such relevant examinations of the CMSA as may be prescribed from time to time by the Senate and save in so far as the Senate, acting in consultation with the chairperson of the examinations and credentials committee, has granted exemption on the strength of adequate evidence satisfactory to the Senate, clearly establishing a person's relevant equivalent postgraduate qualifications and competence; and
 - (4) have been found to be of good character and in good professional standing.

Fellows by peer review

14. Fellows by peer review refer to members whose names were duly enrolled and remain so enrolled as Fellows by peer review on the Register.
15. Subject to the provisions of any relevant Rules, the Senate may from time to time elect persons to be Fellows by peer review: provided such persons satisfy the following requirements:
 - (1) possess qualifications entitling them to be registered with the HPCSA;
 - (2) are registered with the HPCSA for such period as the Senate may from time to time determine;
 - (3) have fulfilled the criteria laid down by the Senate for admission by peer review;
 - (4) are already specialists registered with the HPCSA; and
 - (5) have been found to be of good character and in good professional standing.

Associates

16. Associates refer to members whose names were duly enrolled and remain so enrolled as Associates on the Register.
17. Subject to the provisions of any relevant Rules, the Senate may from time to time elect persons to be Associates: provided such persons satisfy the following requirements:
 - (1) have been found by the Senate to possess the qualifications entitling them to be registered with the HPCSA;
 - (2) have been found to be of good character and in good professional standing; and
 - (3) have been elected as Associates, in the discretion of the Senate, in accordance with such guidelines as may be determined from time to time by the Senate.

Certificants

18. Certificants refer to members whose names were duly enrolled and remain so enrolled as Certificants on the Register.
19. Subject to the provisions of any relevant Rules, the Senate may from time to time elect persons to be Certificants: provided such persons satisfy the following requirements:
 - (1) possess qualifications entitling them to be registered with the HPCSA;
 - (2) are registered with the HPCSA for such period as the Senate may from time to time determine;
 - (3) have passed such relevant examinations of the CMSA as may be prescribed from time to time by the Senate; and
 - (4) have been found to be of good character and in good professional standing.

Diplomates

20. Diplomates refer to members whose names were duly enrolled and remain so enrolled as Diplomates on the Register.
21. Subject to the provisions of any relevant Rules, the Senate may from time to time elect persons to be Diplomates: provided such persons satisfy the following requirements:
 - (1) possess qualifications entitling them to be registered with the HPCSA;

- (2) are registered with the HPCSA for such period as the Senate may from time to time determine;
- (3) have passed such relevant examinations of the CMSA as may be prescribed from time to time by the Senate; and
- (4) have been found to be of good character and in good professional standing.

Honorary Fellows and Fellows ad eundem

22. The Senate may from time to time:
 - (1) elect existing members as Honorary Fellows and Fellows *ad eundem*; or
 - (2) admit to the Honorary Fellowship or Fellowship *ad eundem* of the CMSA, upon such terms as may be expedient, such distinguished members of the medical and dental professions or such other eminent persons who do not hold a CMSA recognised qualification, whether or not members of the medical and dental professions, as may be determined by the Senate.
23. Honorary Fellows and Fellows *ad eundem* shall not, by virtue of holding such title, be entitled to exercise the rights and obligations of members as provided for in this Mol.
24. Existing members who become Honorary Fellows or Fellows *ad eundem* shall not by reason of that appointment be precluded from continuing to exercise all the rights and privileges to which they were entitled by virtue of their membership, whether as Founder, Associate Founder, Member, Fellow, Associate, Certificant or Diplomate.

Requirements for enrolment on the Register

25. Persons elected by the Senate as members of the CMSA, shall only be enrolled on the Register after:
 - (1) paying such registration fee, as may from time to time be prescribed by the Board;
 - (2) signing such declaration, as may from time to time be prescribed by the Board; and
 - (3) signing such form of application and agreement to be bound by the Mol and the Rules of the CMSA, as may from time to time be prescribed by the Board;

provided that a person who has previously been enrolled as a Founder, Associate Founder or Member shall not be required to pay a registration fee as aforesaid.

Annual subscriptions payable, waiving of annual subscriptions, life membership and retired membership benefits

26. (1) Each member of the CMSA shall pay such annual subscription as shall be prescribed from time to time by the Board.
- (2) At any time after a member has already paid at least five (5) annual subscriptions, such member may, by paying to the CMSA a sum equal to twenty (20) annual subscriptions (at the rate applicable at the date of such payment) less an amount equal to the five (5) or more subscriptions already paid, become a life member and thereupon the said member shall not be liable to pay any further annual subscriptions.
- (3) The annual subscriptions payable by members not resident in South Africa as well as the amount payable by such non-resident members to become life members shall be prescribed by the Board from time to time: provided that if any such non-resident member becomes a resident in South Africa after becoming a life member, such member may elect to remain a life member by paying or being refunded (whichever is applicable) the difference between the amount paid to become a non-resident life member and the amount that would have been payable if such member had been resident in South Africa at the time or such member may elect to revert to payment of annual subscriptions in which case such member shall not be entitled to a refund of any amount paid to become a non-resident life member;
- (4) A member who has been in good standing as a member for at least thirty (30) years and is at least sixty five (65) years of age shall become a life member.
- (5) Payment of annual subscriptions may be waived by the Board in respect of any member who has attained the age of seventy (70) years.
- (6) Payment of annual subscriptions may be reduced by the Board for members who have retired from active medical or dental practice but wish to retain their full membership benefits such as voting rights and life membership privileges in terms of paragraph 26(4). The amount payable by such members shall be prescribed by the Board from time to time. Such members who do not wish to retain their voting rights or maintain the benefit of life membership of the CMSA, may cease the payment of their annual subscriptions. Such members shall continue to have electronic access to the journal of the CMSA.

Rights and privileges dependent on enrolment and payment of subscriptions

27. (1) No member shall enjoy any of the rights and privileges of membership until such member has paid the prescribed registration fee or any other fee as determined by the Board.
- (2) A member's rights to enjoy any of the rights and privileges of membership shall be suspended should such member have failed to pay any annual subscription due to the CMSA within a stipulated time and such privileges of membership shall only be reinstated upon payment of all outstanding annual subscriptions due by such member.
- (3) Life members and members in respect of whom payment of annual subscriptions have been waived, shall be deemed to have paid their annual subscriptions.
- (4) Notwithstanding the other provisions set out in this paragraph 27 and for the sake of clarity, no subscription in respect of a member shall be waived unless special circumstances (which shall in each case be identified and considered) are present in respect of that member, and the payment of subscriptions shall not be waived in general terms in respect of members who failed to pay their subscriptions.

List of defaulters

28. The Board shall from time to time cause a list to be prepared of members who are in default under either paragraph 26 or 27 and who are thus not entitled to exercise the rights and privileges of members: provided that the defaulting members may continue to use the designation applicable to their respective categories of membership (and any relative abbreviation thereof).

Rights of members are personal only

29. The rights and privileges of every member shall be personal to such member, and shall not be transferable or transmissible.

Division of CMSA into separate Colleges; the respective constituent Colleges and their designations

30. (1) For the purpose of differentiating between the respective qualifications of the members, the members of the CMSA shall be classified into such separate Constituent Colleges as the Senate may determine in accordance with paragraph 30 (2).
- (2) The Senate may from time to time in its discretion constitute such separate Constituent Colleges as the Senate may from time to time regard as appropriate and in the interests of the CMSA, and the

Senate may determine and authorise the use of the respective designations (with relevant abbreviations) to be applied to the members of the said Constituent Colleges – all in accordance with such Rules as may from time to time be applicable.

- (3) Each Constituent College shall be entitled to receive from the Register of the CMSA referred to in paragraph 32, a list containing the details of members whose qualifications entitle them to be registered with such Constituent College.
- (4) Subject to compliance with paragraph 25, if any member is qualified for registration in more than one of the Constituent Colleges, such member shall choose which Constituent College to belong to for purposes of nomination, election and voting and such member shall thereafter be deemed to be registered with such College.

Cessation of membership

31. (1) A member shall cease to be a member, in the following circumstances:
 - (a) if such member dies;
 - (b) if by notice in writing to the CMSA, such member resigns; or
 - (c) if the name of such member is removed from the register referred to in the Health Professions Act, 56 of 1974, or from any analogous register and by resolution of the Senate in accordance with paragraph 34; or
 - (d) if by resolution of the Senate in accordance with paragraph 33, such member's name is removed from the Register.
- (2) Persons who ceased to be members in accordance with paragraph 31(1) (b), (c) or (d) shall cease, both directly and indirectly, expressly or impliedly, to hold themselves out as being members.
- (3) Should any person disregard the provisions of paragraph 31 (2), the CMSA shall be entitled to apply to any court of competent jurisdiction for an appropriate interdict against such person, together with a prayer regarding costs of the proceedings. Such costs to be on the scale as between attorney and own client.

REGISTER OF MEMBERS

32. (1) The CMSA shall maintain a Register, in the form of an electronic database, wherein shall be entered the names of members of the CMSA, the Constituent Colleges to which they belong, their addresses, year of registration, qualifications, classes of membership and offices held in the CMSA, past and present, and any additional information as may be determined from time to time by the Board.

- (2) The CMSA shall regularly update the Register and remove the names of persons who ceased to be members in accordance with paragraph 31.

Removal from Register under extraordinary circumstances

33. Subject to the Mol and the Rules, the Senate shall have the power to remove the name of any member from the Register: provided that no member's name shall be removed from the Register except pursuant to a Senate resolution which complies with the following prerequisites:
 - (1) not less than 75% of the total number of Senators shall be present at the Senate meeting;
 - (2) the resolution must be passed by a majority of at least two-thirds (67%) of the Senators present in person at the Senate meeting;
 - (3) not less than 14 (fourteen) calendar days' written notice of the Senate meeting and its purposes shall be sent to the member whose name the Senate proposes to remove from the Register and such member shall be given an opportunity to be heard at the Senate meeting; and
 - (4) the resolution shall only be adopted after the representations (if any) made by the member referred to in this paragraph have been duly considered.
34. If the name of any member is removed from the register referred to in the Health Professions Act, 56 of 1974, or from any analogous register, the Senate shall have the power to remove the name of such member from the Register: provided that such member has been given not less than 14 (fourteen) calendar days' written notice of the proposed removal from the Register and inviting the member to make written representations to the Senate regarding the proposed removal and the Senate has considered any written representations which such member delivers within the 14 (fourteen) day period prior to making a decision regarding the removal of the member's name.

MEMBERS MEETINGS

Ordinary meetings

35. (1) The CMSA shall hold an ordinary meeting at least once in every calendar year (but no more than 18 months after the previous ordinary meeting) at such time and place as may be prescribed by the Senate.
- (2) The business of an ordinary meeting shall be to receive and consider the income and expenditure account and balance sheet, the reports of the Senate, the Board and of the auditors, to receive a report as to the election or appointment (if any) of Senators, Directors and Constituent

College Councils, to consider any motion proposed by the Senate, the Board or any member and any other business which ought to be transacted at an ordinary meeting in terms of the Mol.

Meeting demanded by members

36. (1) The CMSA shall call a members' meeting if one or more written and signed demands for such meeting are delivered to the CMSA and –
- (a) each such demand describes the specific purpose for which the meeting is proposed; and
 - (b) in aggregate, demands delivered to the CMSA for substantially the same purpose are made and signed by at least 10% of the members.
- (2) The CMSA, or any member, may apply to a court for an order setting aside a demand made in terms of paragraph 36 (1) on the grounds that the demand is frivolous, calls for a meeting for no other purpose than to reconsider a matter that has already been decided by the members, or is otherwise vexatious.
- (3) At any time before the start of the meeting contemplated in paragraph 36 (1) –
- (a) a member who submitted a demand for that meeting may withdraw that demand; and
 - (b) the CMSA must cancel the meeting if, as a result of one or more demands being withdrawn, the remaining members continuing to demand the meeting, in aggregate, fall below the minimum percentage of members required to call a meeting.
- (4) If the CMSA fails to convene a meeting demanded in accordance with paragraph 36 (1), a member may apply to a court for an order requiring the CMSA to convene a meeting on a date, and subject to any terms, that the court considers appropriate in the circumstances.

Extraordinary meetings

37. The Senate or the Board may, whenever it is deemed necessary, convene an extraordinary meeting, to receive and to consider any matter which will not or cannot be received and considered at an ordinary meeting.

Sectional meetings

38. (1) The Senate or the Board may at any time convene a meeting of any particular Constituent College, class or group of members to discuss any business especially affecting that College, class or group; and any resolution of such College, class or group not inconsistent with the Mol

or Rules shall bind the members of that Constituent College, class or group as the case may be.

- (2) Any sectional meeting convened in accordance with paragraph 38 shall not be subject to the provisions of paragraphs 39 to 40.

Location of members' meetings

39. Subject to the Rules, all members meetings shall be held at such place or places as the Senate shall from time to time appoint.

Notice of members' meetings

40. (1) The company secretary or such other person as may be authorised by the Board must deliver a notice of each members' meeting in the prescribed manner and form to all of the members as of the record date for the meeting, not less than 15 business days before the meeting is to begin.
- (2) The CMSA may call a members' meeting with less notice than required by paragraph 40 (1), but such a meeting may proceed only if every member who is entitled to exercise voting rights in respect of any item on the meeting agenda is present at the meeting and votes to waive the required minimum notice of the meeting.
- (3) A notice of a members' meeting must be in writing, and must include-
 - (a) the signature of or have printed at the foot thereof, the name of the honorary registrar or company secretary;
 - (b) in the case of a meeting convened by requisition of members in accordance with the Mol or Rules, the signature of or have printed at the foot thereof, the names of members demanding the meeting or a majority of them;
 - (c) the date, time and place for the meeting, and the record date for the meeting;
 - (d) the general purpose of the meeting, and any specific purpose contemplated in paragraph 36 (1) (a) if applicable;
 - (e) a copy of any proposed resolution of which the CMSA has received notice, and which is to be considered at the meeting, and a notice of the percentage of voting rights that will be required for that resolution to be adopted;
 - (f) in the case of an ordinary meeting, a copy of the annual report of the Senate and the Board, the income and expenditure account and balance sheet, together with the auditors' report; and

- (g) a reasonably prominent statement that a member entitled to attend and vote at the meeting is entitled to appoint a proxy to attend, participate in and vote at the meeting in the place of the member, that a proxy need not also be a member, and that meeting participants may be required to provide satisfactory identification.
- (4) If there was a material defect in the giving of the notice of a members meeting, the meeting may proceed, subject to paragraph 40 (5), only if every member is present at the meeting and votes to approve the ratification of the defective notice.
- (5) If a material defect in the form or manner of giving notice of a meeting relates only to one or more particular matters on the agenda for the meeting, any such matter may be severed from the agenda, and the notice remains valid with respect to any remaining matters on the agenda; and the meeting may proceed to consider a severed matter, if the defective notice in respect of that matter has been ratified in terms of paragraph 40 (4).
- (6) An immaterial defect in the form or manner of giving notice of a members' meeting, or an accidental or inadvertent failure in the delivery of the notice to any particular member to whom it was addressed, does not invalidate any action taken at the meeting.
- (7) A member who is present at a meeting, either in person or by proxy –
 - (a) is regarded as having received or waived notice of the meeting, if at least the required minimum notice was given; and
 - (b) has a right to allege a material defect in the form of notice for a particular item on the agenda for the meeting and to participate in the determination whether to waive the requirements for notice if less than the required minimum notice was given, or to ratify a defective notice; and
 - (c) except to the extent set out in paragraph 40 (7) (b), is regarded as having waived any right based on an actual or alleged defect in the notice of the meeting.
- (8) A notice may be given by the Board to any member either electronically or personally or by sending it through the post in a prepaid letter, envelope, or wrapper, addressed to such member at his/her registered address or failing such, to his/her last known address.
- (9) Each member whose registered address is not in Africa south of the equator may from time to time notify the CMSA in writing of an address in the Republic of South Africa which shall be deemed his/her registered address within the meaning of paragraph 40(8).

- (10) Any notice sent by post shall be deemed to have been delivered on the date and at the time specified in Table C3 of the Regulations.
- (11) Where a given number of days' notice, or a notice extending over any other period is required to be given, the day of service or delivery shall not be counted in such number of days or other period.

Appointment of proxy

- 41. (1) At any time, a member may appoint a proxy to participate in, and speak and vote at, a members meeting on behalf of the member or give or withhold written consent on behalf of the member to a decision.
- (2) A proxy appointment must be in writing, dated and signed by the member and remains valid for one year after the date on which it was signed or such other period expressly set out in the appointment: unless it is revoked in a manner contemplated in paragraph 41(6)(c), or expires earlier as contemplated in paragraph 41(10)(c).
- (3) A member may not appoint two or more persons concurrently as proxies.
- (4) A proxy may not delegate the proxy's authority to act on behalf of the member to any another person, other than the chairperson of the meeting.
- (5) A copy of the instrument appointing a proxy must be delivered to the honorary registrar or the company secretary before the meeting commences and before the proxy exercises any rights of the member at a members meeting.
- (6) Irrespective of the form of instrument used to appoint a proxy –
 - (a) the appointment is suspended at any time and to the extent that the member chooses to act directly and in person in the exercise of any rights as a member;
 - (b) the appointment is revocable unless the proxy appointment expressly states otherwise; and
 - (c) the appointment is revocable, and a member may revoke the proxy appointment by cancelling it in writing, or making a later inconsistent appointment of a proxy and delivering a copy of the revocation instrument to the proxy, and to the CMSA.
- (7) The revocation of a proxy appointment constitutes a complete and final cancellation of the proxy's authority to act on behalf of the member as of the later of –
 - (a) the date stated in the revocation instrument, if any; or

- (b) the date on which the revocation instrument was delivered as required in paragraph 41 (6) (c).
- (8) If the instrument appointing a proxy or proxies has been delivered to the CMSA in accordance with paragraph 41 (5), as long as that appointment remains in effect, any notice that is required by the Act or the Mol to be delivered by the CMSA to the member must be delivered by the CMSA to the member or the proxy, if the member has directed the CMSA to do so, in writing and paid any reasonable fee charged by the CMSA for doing so.
 - (9) A proxy is entitled to exercise, or abstain from exercising, any voting right of the member without direction, except to the extent that the Mol, or the instrument appointing the proxy, provides otherwise.
 - (10) If the CMSA issues an invitation to members to appoint a person named by the CMSA as a proxy, or supplies a form of instrument for appointing a proxy –
 - (a) the invitation shall be sent to every member who is entitled to notice of the meeting at which the proxy is intended to be exercised;
 - (b) the invitation, or form of instrument for the purpose of appointing a proxy, shall bear a reasonably prominent summary of the rights established by this paragraph 41, contain adequate blank space, immediately preceding the name or names of any person named in it, to enable a member to write in the name and, if so desired, an alternative name of a proxy chosen by the member; and provide adequate space for the member to indicate whether the appointed proxy is to vote in favour of or against any resolution or resolutions to be put at the meeting, or is to abstain from voting; and
 - (c) the proxy appointment remains valid only until the end of the meeting at which it was intended to be used.
 - (11) Paragraphs 41 (10) (b) and (c) do not apply if the CMSA merely supplies a generally available standard form of proxy appointment on request by a member.

Conducting members' meetings electronically or participating in absentia in a members' meeting by electronic communication

- 42. The CMSA is prohibited from providing for a members' meeting to be conducted entirely by electronic communication and from providing for one or more members who are unable to attend a members' meeting, to participate in the meeting by electronic communication.

Chairperson of members' meeting

43. (1) The president of the CMSA, or in his/her absence or if he/she shall be unwilling to act, such vice-president as is present, is willing to act and is designated by the meeting, shall take the chair at every members' meeting.
- (2) If neither the president of the CMSA or a vice-president is present or willing to act as the chair of a members' meeting within fifteen minutes after the time appointed for the commencement of such meeting, the members personally present shall choose another member (preferably a Senator), to take the chair at the members' meeting.

Voting at members' meetings

44. (1) At a meeting of members, voting may be exercised by the voting members either by show of hands, or by polling.
- (2) Any person who is present at the meeting, whether as a voting member or as proxy for a voting member, has one vote, irrespective of whether voting is by show of hands or polling.
- (3) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business, other than the question on which a poll has been demanded.
- (4) Any poll duly demanded on the election of a chairperson of a meeting or on any question of adjournment shall be taken at the meeting without adjournment.
- (5) In the case of an equality of votes, both on a show of hands or on a poll, the chairperson of the particular members' meeting shall have a casting vote in addition to the vote or votes to which the chairperson may be entitled as a voting member.
- (6) A declaration by the chairperson that a resolution has been passed or not been passed, or passed by a particular majority or not passed by a particular majority, and an entry to that effect in the minute book of the CMSA, shall be conclusive evidence of the vote, without proof of the number or proportion of the votes recorded in favour of or against a resolution.

Quorum at ordinary and extraordinary general meetings

45. (1) A members' meeting may not begin until sufficient persons (in person or by proxy) are present at the meeting to exercise, in aggregate, at least 0.25% of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting and a matter to be decided at the meeting may not begin to be considered

unless sufficient persons are present at the meeting to exercise, in aggregate, at least 0.25% of all of the voting rights that are entitled to be exercised on that matter at the time the matter is called on the agenda.

- (2) If, within one hour after the appointed time for a meeting to begin, the requirements of paragraph 45 (1) –
 - (a) for that meeting to begin have not been satisfied, the meeting is postponed without motion, vote or further notice, for one week;
 - (b) for consideration of a particular matter to begin have not been satisfied –
 - (i) if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or
 - (ii) if there is no other business on the agenda of the meeting, the meeting is adjourned for one week, without motion or vote.
- (3) The person intended to preside at a meeting that cannot begin due to the operation of paragraph 45 (1), may extend the one-hour limit allowed in paragraph 45 (2) for a reasonable period on the grounds that –
 - (a) exceptional circumstances affecting weather or transportation have generally impeded or are generally impeding the ability of members to be present at the meeting; or
 - (b) one or more particular members, having been delayed, have communicated an intention to attend the meeting, and those members, together with others in attendance, would satisfy the requirements of paragraph 45 (1).
- (4) The CMSA shall not be required to give further notice of a meeting that is postponed or adjourned in terms of paragraph 45 (2), unless the location for the meeting is different from the location of the adjourned meeting or a location announced at the time of adjournment, in the case of an adjourned meeting.
- (5) If, at the time appointed in terms of this paragraph for a postponed meeting to begin, or for an adjourned meeting to resume, the requirements of paragraph 45 (1) have not been satisfied, the members present in person or by proxy will be deemed to constitute a quorum as determined by section 64(8) of the Act.
- (6) After a quorum has been established for a postponed or adjourned meeting, or for a matter to be considered at a meeting, the meeting may continue, or the matter may be considered, so long as at least one voting member is present at the meeting.

- (7) Any members' meeting, or the consideration of any matter being debated at the meeting, may be adjourned from time to time without further notice (to a fixed time and place or until further notice) on a motion supported by persons entitled to exercise, in aggregate, a majority of the voting rights held by all of the persons who are present at the meeting at the time and that are entitled to be exercised on at least one matter remaining on the agenda of the meeting, or on the matter under debate, as the case may be.
- (8) A members' meeting may not be adjourned beyond the earlier of the date that is 120 (one hundred and twenty) business days after the recorded date or the date that is 60 (sixty) business days after the date on which the adjournment occurred.

MEMBERS' RESOLUTIONS

Types of members' resolutions

46. Every resolution of members is either an ordinary resolution or a special resolution.

Proposal and form of resolutions

47. (1) The Senate or the Board may propose any resolution to be considered by the members.
- (2) Any two members may propose a resolution concerning any matter in respect of which they are each entitled to exercise voting rights and when proposing a resolution, may require that the resolution be submitted to members for consideration –
 - (a) at a meeting demanded in terms of paragraph 36;
 - (b) at the next members meeting; or
 - (c) by written vote in terms of section 60 of the Act.
- (3) A proposed resolution must be expressed with sufficient clarity and specificity and accompanied by sufficient information or explanatory material to enable a member who is entitled to vote on the resolution to determine whether to participate in the meeting and to seek to influence the outcome of the vote on the resolution.
- (4) At any time before the start of the meeting at which a resolution will be considered, a member, Senator or Director who believes that the form of the resolution does not satisfy the requirements of paragraph 47 (3), may seek leave to apply to a court for an order restraining the CMSA from putting the proposed resolution to a vote until the requirements of paragraph 47 (3) are satisfied and requiring the CMSA, or the

members who proposed the resolution, as the case may be, to take appropriate steps to alter the resolution so that it satisfies the requirements of paragraph 47 (3) and compensate the applicant for costs of the proceedings, if successful.

- (5) Once a resolution has been approved, it may not be challenged or impugned by any person in any forum on the grounds that it did not satisfy paragraph 47 (3).

Ordinary resolutions

48. For an ordinary resolution to be approved by members, it must be supported by more than 50% of the voting rights exercised on the resolution.

Special resolutions

49. (1) For a special resolution to be approved by members, it must be supported by at least 75% of the voting rights exercised on the resolution.
- (2) A special resolution is required for the purposes set out in section 65 (11) of the Act.
- (3) A members' meeting for purposes of adopting a special resolution to amend the Mol may not begin until sufficient persons are present at the meeting to exercise, in aggregate, at least 0.25% of all the voting rights that are entitled to be exercised in respect of the special resolution to be adopted.

SENATE

Authority of the Senate

50. The Senate shall be the body of persons authorised by the members to exercise those rights and duties specifically conferred by this Mol upon the Senate.

Composition of the Senate

51. (1) The Senate shall comprise a minimum of 40 Senators, which shall include:
 - (a) the president of the CMSA;
 - (b) the vice-presidents of the CMSA;
 - (c) the immediate past president of the CMSA (i.e. the retiring president);
 - (d) elected Senators (appointed in the manner set out in the Mol and the Rules); and

- (e) so many co-opted officers and/or members who will serve the needs of the Senate, as determined by the Senate from time to time and as appointed by the elected Senators.
- (2) The election or appointment of a person as a Senator is a nullity if, at the time of the election or appointment, that person is ineligible or disqualified.

The immediate past president

- 52. (1) The immediate past president of the CMSA shall be deemed to be an elected Senator.
- (2) The immediate past president of the CMSA shall not hold any office in the CMSA, other than as an *ex officio* Director of the Board, whilst on the Senate as immediate past president of the CMSA.
- (3) The immediate past president of the CMSA shall not be eligible for re-election or be eligible for co-option to the Senate or the Board at the expiration of his/her term on the Senate as immediate past president of the CMSA.

Elected Senators

- 53. (1) The large Constituent Colleges, namely:
 - (a) Anaesthetists;
 - (b) Family Physicians;
 - (c) Obstetricians and Gynaecologists;
 - (d) Paediatricians;
 - (e) Physicians;
 - (f) Surgeons (General); and

any other College which becomes large enough to be considered by Senate to be a large Constituent College, shall be represented on Senate by so many members as may be determined by Senate from time to time, and shall be elected by the Councils of their Constituent Colleges. These elections and the terms of reference applicable to the said Councils of the Constituent Colleges shall be governed by the Rules.

- (2) The small Constituent Colleges, namely:
 - (a) Cardiothoracic Surgeons;
 - (b) Clinical Pharmacologists;
 - (c) Dentistry;
 - (d) Dermatologists;
 - (e) Emergency Medicine;
 - (f) Forensic Pathologists;
 - (g) Maxillo-Facial and Oral Surgeons;
 - (h) Medical Geneticists;

- (i) Neurologists;
- (j) Neurosurgeons;
- (k) Nuclear Physicians;
- (l) Ophthalmologists;
- (m) Orthopaedic Surgeons;
- (n) Otorhinolaryngologists;
- (o) Paediatric Surgeons;
- (p) Pathologists;
- (q) Plastic Surgeons;
- (r) Psychiatrists;
- (s) Public Health Medicine;
- (t) Radiation Oncologists;
- (u) Radiologists;
- (v) Urologists; and

any new Colleges as the Senate may from time to time decide, shall be represented on Senate by so many members as may be determined by Senate from time to time, and shall be elected by the Councils of their Constituent Colleges. These elections and the terms of reference applicable to the said Councils of the Constituent Colleges shall be governed by the Rules.

- (3) Diplomates who do not hold any specialist qualification shall elect from their number so many representatives on Senate as Senate may from time to time determine. No more than one Diplomat so elected may belong to a particular Constituent College. These elections shall be governed by the Rules.

Honorary officers of the CMSA

- 54. (1) The honorary officers of the CMSA shall be the following:

- (a) president of the CMSA;
- (b) vice-presidents;
- (c) chairperson of the examinations and credentials committee;
- (d) chairperson of the finance and general purposes committee;
- (e) chairperson of the education committee;
- (f) honorary treasurer;
- (g) honorary registrars; and/or

such other honorary officers, being members of the CMSA, as the Senate may determine.

- (2) The election of the chairpersons of the examinations and credentials committee, the finance and general purposes committee, the education committee, the honorary treasurer and honorary registrars, from either the members of the Senate, or from the members of the CMSA shall be governed by the Rules: provided that no salaried officer of the CMSA shall be a Senator.
- (3) An honorary officer shall cease to hold office as an officer of the CMSA upon death, retirement or insolvency or in event that such officer is

removed as an officer by the Senate. The Senators may appoint a new officer to fill any vacancy which arises as a result of the provisions of this paragraph 54(3).

- (4) Save as may be otherwise provided from time to time, two or more offices in the CMSA may be held by any member at the same time.
- (5) The Senate may appoint such temporary substitutes for any officers as may be determined from time to time: provided that no substitute for a salaried officer shall be a Senator.

Election of president of the CMSA

55. (1) The election by Senate of the president, being a member of the CMSA from the members of the Senate, shall be governed by the Rules and shall take place at the end of the third Senate meeting of each triennium.
- (2) The president shall take office at the commencement of the fourth Senate meeting of each triennium.
- (3) The president shall not hold an office in his/her own Constituent College for the duration that he/ she holds office as the president of the CMSA.
- (4) If the newly elected president of the CMSA holds an office in his/her own Constituent College, he/she shall immediately cease to hold such office in the Constituent College. The newly elected president of the CMSA shall moreover be replaced as a representative on Senate of his/her Constituent College Council by a representative on Senate of that respective College, chosen by that College Council.
- (5) The president shall be bound by the rights and obligations set out in the Mol and the Rules.

Election of vice-presidents of the CMSA

56. (1) The election by Senate of one or more, but not more than two (2) vice-presidents, each one being a member of the CMSA from the members of the Senate, shall be governed by the Rules and shall take place at the end of the third Senate meeting of each triennium.
- (2) The vice-presidents shall take office at the commencement of the fourth Senate meeting of each triennium.
- (3) The vice-presidents shall be bound by the rights and obligations set out in the Mol and the Rules.

Terms of office of Senators and honorary officers of the CMSA

57. (1) Senators and honorary officers shall remain in office for minimum periods of 3 (three) years each.
- (2) At the close of the third ordinary meeting of each triennium of the Senate, all Senators and honorary officers of the CMSA for the time being (*excluding the president and vice-presidents who are elected at the third Senate meeting of each triennium*), shall relinquish office, but they shall be eligible for re-election if they qualify in terms of paragraph 57(3).
- (3) The honorary officers, other than the president of the CMSA, shall be entitled to hold office for no more than 3 (three) consecutive triennial periods.
- (4) The president shall not hold office for more than 3 (three) consecutive years.
- (5) The retiring president of the CMSA shall *ipso facto* be a member of the new Senate in accordance with the provisions of paragraph 52.

Ineligibility and disqualification of persons to be Senators or honorary officers

58. (1) A person who is ineligible or disqualified, as set out in this paragraph 58, must not –
- (a) be appointed or elected as a Senator or honorary officer of the CMSA, or consent to being appointed or elected as a Senator or honorary officer; or
- (b) act as a Senator or honorary officer of the CMSA.
- (2) The CMSA shall not knowingly permit an ineligible or disqualified person to serve or act as a Senator or honorary officer of the CMSA.
- (3) A person who becomes ineligible or disqualified while serving as a Senator or honorary officer of the CMSA ceases to be entitled to continue to act as such immediately.
- (4) A person is ineligible to be a Senator or honorary officer of the CMSA if the person does not satisfy the requirements for a director in terms of the Act and/or any qualification set out in the Mol.
- (5) A person is disqualified to be a Senator or honorary officer of the CMSA if –
- (a) a court has prohibited that person to be a director of a company, or declared the person to be delinquent in terms of the Act; or

- (b) the person –
 - (i) is an unrehabilitated insolvent;
 - (ii) is prohibited in terms of any public regulation to be a Senator or honorary officer of the CMSA;
 - (iii) has been removed from an office of trust, on the grounds of misconduct involving dishonesty; or
 - (iv) has been convicted, in South Africa or elsewhere, and imprisoned without the option of a fine, or fined more than the prescribed amount, for theft, fraud, forgery, perjury or an offence involving fraud, misrepresentation or dishonesty; or
- (c) the person ceases to be a member in good standing of the CMSA.

Vacancies on the Senate or in the post of an honorary officer

59. (1) Subject to paragraph 59 (2), a person ceases to be a Senator or honorary officer of the CMSA and a vacancy arises on the Senate –
- (a) when the person's term of office as Senator or honorary officer expires; or
 - (b) in any case, if the person –
 - (i) resigns or dies;
 - (ii) in the case of an *ex officio* Senator, ceases to hold the office, title, designation or similar status that entitled the person to be an *ex officio* Senator;
 - (iii) becomes incapacitated to the extent that the person is unable to perform the functions of a Senator or honorary officer, and is unlikely to regain that capacity within a reasonable time;
 - (iv) is declared delinquent by a court, or placed on probation under conditions that are inconsistent with continuing to be a Senator or honorary officer of the CMSA;
 - (v) becomes ineligible or disqualified in terms of paragraph 58; or
 - (vi) is removed –
 - (aa) by resolution of the members in terms of paragraph 60;

- (bb) by resolution of the Senate in terms of paragraph 60; or
 - (cc) by order of the court.
- (2) If a vacancy arises on the Senate, other than as a result of an *ex officio* Senator ceasing to hold that office, it must be filled by the Senate from amongst the members of the CMSA and comply with the following provisions:
- (a) the vacancy must be filled in a manner consistent with the Mol and Rules, by a member who belongs to the same Constituent College as the vacating member;
 - (b) in the case of a Diplomate Senator vacating office, the Senate shall fill the vacancy by appointing a Diplomate from amongst the Diplomates of the CMSA who do not hold a specialist qualification or belong to the same Constituent College as any other Diplomate representative on Senate;
 - (c) any member appointed to fill a casual vacancy shall only hold office for the remainder of the period for which the vacating Senator would have retained office if no vacancy had occurred; and
 - (d) any member appointed to fill a casual vacancy shall be eligible for re-election.

Removal of a Senator

60. (1) A Senator may be removed by an ordinary resolution adopted at a members' meeting.
- (2) Before the members may consider a resolution contemplated in paragraph 60 (1) –
- (a) the Senator concerned must be given not less than fourteen (14) calendar days' notice of the meeting and the resolution, at least equivalent to that which a member is entitled to receive; and
 - (b) the Senator must be afforded a reasonable opportunity to make a presentation, in person or through a representative, to the meeting, before the resolution is put to a vote.
- (3) If a member or Senator has alleged that a Senator of the CMSA –
- (a) has become –
 - (i) inelligible or disqualified in terms of the Act and/ or paragraph 58; or

- (ii) incapacitated to the extent that the Senator is unable to perform the functions of a Senator, and is unlikely to regain that capacity within a reasonable time; or
 - (b) has neglected, or has been derelict in the performance of, the functions of a Senator, the Senate, other than the Senator concerned, must determine the matter by resolution, and may remove a Senator whom it has determined to be ineligible or disqualified, incapacitated, or negligent or derelict, as the case may be.
- (4) Before the Senate may consider a resolution contemplated in paragraph 60 (3), the Senator concerned must be given –
- (a) not less than fourteen (14) calendar days' notice of the meeting, including a copy of the proposed resolution and a statement setting out reasons for the resolution, with sufficient specificity to reasonably permit the Senator to prepare and present a response; and
 - (b) a reasonable opportunity to make a presentation, in person or through a representative, to the meeting before the resolution is put to a vote.

Senate may act notwithstanding vacancies

61. Any failure by the CMSA at any time to have the minimum number of Senators required by the Mol, does not limit or negate the authority of the Senate, or invalidate anything done by the Senate or the CMSA.

POWERS OF THE SENATE

62. (1) The Senate shall at all times act in the best interest or good management of the CMSA and the promotion of its objects, particularly when exercising the specific powers conferred upon Senate by this Mol (including powers relating to the election of Fellows, Certificants and Diplomates; Constituent College Councils and other committees or panels of examiners and any regulations made by Senate) and when exercising an oversight function over the Board (including in relation to board and standing committees, property, employees, the provision of security and financial matters).
- (2) In addition to the powers and authorities expressly conferred upon the Senate by the Mol and the Rules, the overall function that the Senate shall exercise over the Board, shall include the following:
- (a) to review, monitor and supervise the conduct of the Board;

- (b) to detect and prevent abuse of power, fraud, corruption and any other unlawful conduct on the part of the Board or any of its Directors;
 - (c) to hold the Board accountable for the use of the CMSA's funds and any act or resolution of the Board, which in the opinion of the Senate, was not in the best interests of the CMSA; and
 - (d) to ensure that the Board complies with the provisions of the Act, the Mol, the Rules and any lawful direction of the members or the Senate.
- (3) The exercise of any power or authority by the Senate shall be subject to the provisions of the Act, the Mol, the Rules and to any direction from time to time resolved upon by the members of the CMSA at a members' meeting: provided that no such direction from the members of the CMSA shall invalidate any prior act of the Senate which would have been valid if such direction had not subsequently been resolved upon.

Specific powers given to Senate

63. Without prejudice to the powers conferred upon the Senate by paragraph 62 and any other provision of the Mol, it is hereby expressly declared that the Senate shall have the following powers:

Elect Fellows, Certificants and Diplomates

- (a) to elect Fellows, Certificants and Diplomates of the CMSA and for such purpose to make, vary, or rescind the rules specifying the relevant qualifications for admission to the different categories of members as the Senate may from time to time think fit, but subject always to the provisions of the Mol and the Rules;

Constitute Constituent College Councils, committees or panels of examiners

- (b) to appoint Constituent College Councils and such other committees or panels of examiners as the Senate may from time to time determine, and to define their duties;

Delegate Powers to Constituent College Councils and committees

- (c) to delegate any of the powers of Senate to Constituent College Councils and committees consisting of such members of their body as the Senate may deem fit. Constituent College Councils or committees shall in the exercise of the powers delegated to it conform to any regulations or directions which the Senate may from time to time make or give for its guidance;

Make regulations

- (d) to make regulations for the management of the CMSA or of any Constituent College, but no regulations so made shall conflict with the Act, the Mol and the Rules and no regulation shall be made under this power which would amount to such an addition to or alteration of the Mol as could only legally be made by special resolution.

MEETINGS OF THE SENATE

Proceedings

- 64. (1) The Senate shall meet not less than twice a year.
- (2) The president or, in his/her absence or if he/she is unable to act, a vice-president and the honorary registrar and/or the company secretary authorised by the Senate –
 - (a) may call a meeting of the Senate at any time; and
 - (b) must call such a meeting if required to do so by at least 25% of the Senators.
- (3) The president or, in his/her absence or if he/she is unable to act, a vice-president and the honorary registrar and/or the company secretary shall have the power to decide that any meeting called in accordance with paragraph 64 (2) (a) shall be postponed or not be held if in his/her or their opinion, as the case may be, there is not sufficient business of importance on the proposed agenda for such meeting: provided that due notice of the postponement or cancellation of the meeting shall forthwith be sent to all Senators and provided further that it shall not be competent to cancel 2 (two) consecutive biannual meetings of the Senate.
- (4) The Senate may appoint such observers as it may from time to time deem appropriate to attend meetings of the CMSA.
- (5) A meeting of the Senate shall receive and consider a written report of the Board detailing the activities of the Board during the period since the last such meeting of the Senate.

Conducting Senate Meetings electronically or participating in absentia in a Senate meeting by electronic communication

- 65. (1) The CMSA is prohibited from providing for a Senate meeting to be conducted entirely by electronic communication and for providing for

one or more Senators who are unable to attend a Senate meeting, to participate in the meeting by electronic communication.

Electronic voting at meetings of the Senate

- (2) The CMSA is not prohibited from providing for electronic voting by Senators in attendance at meetings of the Senate.

Notice of meetings of the Senate

66. (1) The Senate may determine the form and time for giving notice of its meetings, but –
- (a) such a determination must comply with any requirements set out in the Mol, or Rules; and
 - (b) no meeting of the Senate may be convened without notice to all of the Senators, subject to paragraph 66(3).
- (2) Not less than 14 (fourteen) calendar days' notice shall be issued to Senators in respect of any meeting of the Senate and not less than 2 (two) calendar days' notice shall be issued to the relevant Senators and other members involved in a Constituent College Council meeting or a committee of the Senate, in respect of a meeting of any Constituent College Council or a committee of the Senate. Such notice shall include information as to the time and place of the meeting and the business to be considered. Notwithstanding the afore going, if in the opinion of the president of the CMSA or any 3 (three) members of the relevant Constituent College Council or committee, as the case may be, a case of emergency has arisen, a meeting may be convened on short notice and no business shall be transacted other than that for which such emergency meeting was called, unless with the unanimous consent of the Senators and other committee members present.
- (3) Except as otherwise provided by the Mol or Rules, if all of the Senators and other members of the Constituent College Councils or committees:
- (a) acknowledge actual receipt of the notice;
 - (b) are present at a meeting; or
 - (c) waive notice of the meeting,

the meeting may proceed even if the CMSA failed to give the required notice of that meeting, or there was a defect in the giving of the notice.

Quorum for meetings of the Senate

67. The number of Senators required to form a quorum shall be twelve (12) Senators present in person or by proxy: provided that eighteen (18) Senators present in person or by proxy shall be required to form a quorum for any meeting at which the election of honorary officers or members is to be decided upon.

Voting at meetings of the Senate

68. (1) At meetings of Senate:
- (a) the president CMSA shall have 1 (one) vote;
 - (b) the immediate past president shall have 1 (one) vote;
 - (c) each Senator elected in terms of paragraph 53(1) shall have 2 (two) votes;
 - (d) each Senator elected in terms of paragraph 53(2) shall have 1 (one) vote;
 - (e) each Senator elected in terms of paragraph 53(3) shall have 1 (one) vote: and
 - (f) each Senator co-opted as contemplated in paragraph 51(1)(e) shall have 1 (one) vote.
- (2) Notwithstanding the provisions of paragraph 68(1), the Senate may from time to time by resolution amend the number of votes which the various classes of Senators set out in paragraph 68(1) may exercise at meetings of Senate.
- (3) Voting shall be by way of confidential ballot, unless otherwise determined by the president of the CMSA: provided that any other voting method as determined by the president of the CMSA, shall take due account of the number of votes which the various classes of Senators set out in paragraph 68(1) may exercise at meetings of Senate.
- (4) Observers appointed in accordance with paragraph 64(4) shall have no voting rights.

Chairperson of the Senate

69. The president of the CMSA, or in his/her absence or if he/she is unable to act, such vice-president as is present, able to act and is designated by the meeting, shall take the chair at such meetings of the Senate as he/she shall attend. Should neither the president nor a vice-president be present and able to act, the Senators present shall choose someone of their number to chair such meeting.

Decisions at meetings of the Senate

70. (1) Voting shall be by way of confidential ballot as set out in paragraph 68(3);
- (2) A two-thirds majority vote (67%) shall be required to approve any resolution of Senate.

- (3) A two-thirds majority vote (67%) shall be necessary for the election of any member.
- (4) In the case of a tied vote –
 - (a) the chair may cast a deciding vote, in addition to the vote already cast by the chair in accordance with paragraph 68; or
 - (b) the matter being voted on fails, in any other case.

Senators acting other than at meeting

71. (1) The Senate may, subject to paragraph 71(2) decide, in its discretion, that a decision that could be voted on at a meeting of the Senate may instead be adopted by written consent of a majority of the directors, given in person, by electronic communication or by postal ballot, provided that each Senator has received notice of the matter to be decided.
- (2) If not less than 20% of the Senators request the company secretary in writing that the decision referred to in paragraph 71(1) above be decided and debated at a meeting of the Senate, it shall not be decided until it has been debated and decided at a meeting of the Senate.
- (3) A decision made in the manner contemplated in paragraph 71(1) above is of the same effect as if it had been approved by voting at a meeting of the Senate.

THE BOARD

Authority of the Board

72. The business and affairs of the CMSA must be managed by or under the direction of the Board, which has the authority to exercise all of the powers and perform any of the functions of the CMSA, except to the extent that the Act or this Mol provides otherwise.

Composition of the Board

73. (1) The Board shall comprise:
- (a) a minimum of 1 (one) and a maximum of 3 (three) Directors being employees of the CMSA who qualify as follows to serve on the Board:
 - (i) the CEO as an *ex officio* director; and
 - (ii) any 2 (two) other senior salaried employees of the CMSA appointed from time to time by the Senate as *ex officio* directors;

- (b) the honorary officers as *ex officio* directors;
 - (c) the immediate past president as an *ex officio* director; and
 - (d) so many co-opted persons who will serve the needs of the Board, as determined by the Senate from time to time and as appointed by the Senate.
- (2) The appointment of a person as a Director is a nullity if, at the time of the election or appointment, that person is ineligible or disqualified.
- (3) An *ex officio* Director:
- (a) may not serve or continue to serve as Director, despite holding the relevant office, title, designation or similar status, if that person is or becomes ineligible or disqualified; and
 - (b) who holds office or acts in the capacity of an *ex officio* Director of a company -
 - (i) has all the powers and functions of any other Director of the CMSA; and
 - (ii) has all the duties, and is subject to all of the liabilities, of any other Director of the CMSA.

Ineligibility and disqualification of persons to be Directors

74. (1) A person who is ineligible or disqualified, as set out in this paragraph 74, must not –
- (a) be appointed or elected as a Director of the CMSA, or consent to being appointed or elected as a Director; or
 - (b) act as a Director of the CMSA.
- (2) The CMSA shall not knowingly permit an ineligible or disqualified person to serve or act as a Director.
- (3) A person who becomes ineligible or disqualified while serving as a Director ceases to be entitled to continue to act as such immediately.
- (4) A person is ineligible to be a Director if the person does not satisfy the requirements of the Act and/or any qualification set out in the Mol.
- (5) A person is disqualified to be a Director if –
- (a) a court has prohibited that person to be a director of a company, or declared the person to be delinquent in terms of the Act; or
 - (b) subject to the Act, the person –
 - (i) is an unrehabilitated insolvent;

- (ii) is prohibited in terms of any public regulation to be a Director;
- (iii) has been removed from an office of trust, on the grounds of misconduct involving dishonesty; or
- (iv) has been convicted, in South Africa or elsewhere, and imprisoned without the option of a fine, or fined more than the prescribed amount, for theft, fraud, forgery, perjury or an offence involving fraud, misrepresentation or dishonesty.

Vacancies on the Board

75. A person ceases to be a Director and a vacancy arises on the Board –

- (1) when the person's term of office (if applicable) as a Director expires; or
- (2) in any case, if the person –
 - (a) resigns or dies;
 - (b) in the case of an *ex officio* Director, ceases to hold the office, title, designation or similar status that entitled the person to be an *ex officio* Director;
 - (c) becomes incapacitated to the extent that the person is unable to perform the functions of a Director, and is unlikely to regain that capacity within a reasonable time;
 - (d) is declared delinquent by a court, or placed on probation under conditions that are inconsistent with continuing to be a Director in terms of the Act;
 - (e) becomes ineligible or disqualified in terms of paragraph 74; or
 - (f) is removed –
 - (i) by resolution of the members in terms of paragraph 76;
 - (ii) by resolution of the Senate in terms of paragraph 76;
 - (iii) by resolution of the Board in terms of paragraph 76; or
 - (iv) by order of the court.

Removal of a Director

76. (1) A Director may be removed by an ordinary resolution adopted at a members' meeting or by Senate.

- (2) Before the members or Senate (whichever is applicable) may consider a resolution contemplated in paragraph 76 (1) –
 - (a) the Director concerned must be given not less than fourteen (14) calendar days' notice of the meeting and the resolution; and
 - (b) the Director must be afforded a reasonable opportunity to make a presentation, in person or through a representative, to the meeting, before the resolution is put to a vote.

- (3) If a member, Senator or Director has alleged that a Director of the CMSA –
 - (a) has become –
 - (i) ineligible or disqualified in terms of the Act and/or paragraph 74; or
 - (ii) incapacitated to the extent that the Director is unable to perform the functions of a Director, and is unlikely to regain that capacity within a reasonable time; or
 - (b) has neglected, or has been derelict in the performance of, the functions of a Director,

the Board, other than the Director concerned, must determine the matter by resolution, and may remove a Director whom it has determined to be ineligible or disqualified, incapacitated, or negligent or derelict, as the case may be.

- (4) Before the Board may consider a resolution contemplated in paragraph 76 (3), the Director concerned must be given –
 - (a) not less than fourteen (14) calendar days' notice of the meeting, including a copy of the proposed resolution and a statement setting out reasons for the resolution, with sufficient specificity to reasonably permit the Director to prepare and present a response; and
 - (b) a reasonable opportunity to make a presentation, in person or through a representative, to the meeting before the resolution is put to a vote.

- (5) Any resolution of the Board as contemplated in paragraph 76(3) and (4) shall be subject to the provisions of section 71 of the Act.

Board may act notwithstanding vacancies

77. Any failure by the CMSA at any time to have the minimum number of Directors required by the Act or the Mol, does not limit or negate the authority of the Board, or invalidate anything done by the Board.

POWERS OF THE BOARD

78. (1) The business of the CMSA shall be managed by the Board.
- (2) In addition to the powers and authorities expressly conferred upon the Board by the Mol and the Rules, the Board may exercise all such powers and do all such acts and things as may be exercised or done by the CMSA and which are not hereby or by the Act directed or required to be exercised or done by the Senate or by the members of the CMSA in general meeting.
- (3) The exercise of any power or authority by the Board shall be subject to the provisions of the Act, the Mol, the Rules and to any direction from time to time resolved upon by the Senate or by the members of the CMSA in general meeting: provided that no such direction from the Senate or by the members of the CMSA shall invalidate any prior act of the Board which would have been valid if such direction had not subsequently been resolved upon.

Specific powers given to the Board

79. Without prejudice to the general powers conferred upon the Board by paragraph 78 and without prejudice to the other powers conferred upon the Board by the Act or the Mol, it is hereby expressly declared that the Board shall have the following powers:

Act for the CMSA

- (a) subject to the Act and the Mol, to do all other lawful things that the Board may consider to be in the best interest or good management of the CMSA or the promotion of its objects;

Purchase or hire property

- (b) to, subject to the provisions of any law, purchase, hire or otherwise acquire for the CMSA any property, rights, or privileges which the CMSA is authorised to acquire at or for such price or consideration and generally on such terms and conditions as the Board may think fit and to let, sell, hypothecate or mortgage the same, as may be deemed expedient in the interests of the CMSA;

Appoint, remove or suspend employees

- (c) to, subject to compliance with the relevant labour laws and the Act, appoint and remove or suspend employees, determine their duties and powers, fix their salaries or emoluments and require security in such

instances, and to such amount as the Board may from time to time determine;

Provide security by way of indemnity

- (d) to execute in the name and on behalf of the CMSA in favour of any member, or other person who may incur or be about to incur any personal liability for the benefit of the CMSA, such mortgages or hypothecations of the property of the CMSA (both present and/or future) as the Board shall think fit, and any such mortgage may contain such conditions and provisions as shall be agreed upon;

Borrow money

- (e) subject to the Act and only with the sanction of a members' meeting, to raise any loan or loans for the purposes of the CMSA in any manner, upon any security, including the pledge, mortgage or hypothecation of the property of the CMSA (both present and/or future) and on terms authorised by such meeting, and to issue any debentures or debenture stock or other security to secure the same;

Pay travelling expenses

- (f) to pay out of pocket travelling expenses to Directors, Senators, members of Constituent College Councils and committees, examiners and salaried staff when travelling on CMSA business;

Fix fees, subscriptions and charges

- (g) to fix the registration fees, annual subscriptions and other fees and charges payable by the various categories of members of the CMSA as determined by the Board from time to time;

Allocate funds to Constituent Colleges

- (h) to allocate funds to Constituent Colleges, at the discretion of the Board;

Publish literature

- (i) to establish, print, publish, issue and circulate any of the papers, journals, books, magazines, periodicals, circulars, newspapers, leaflets, calendars or other literary or scientific works as referred to in the objects of the CMSA. Copies thereof may be sold and distributed at such prices and on such terms as may from time to time be determined by the Board.

PROCEEDINGS OF BOARD MEETINGS

80. (1) The Board shall meet not less than once every quarter of a year.
- (2) The president or, in his/her absence or if he/she is unable to act, a vice-president or the CEO:
- (a) may call a meeting of the Board at any time; and
 - (b) must call such a meeting if required to do so by at least 25% of the Directors.
- (3) The president or, in his/her absence or if he/she is unable to act, a vice-president or the CEO shall have the power to decide that any meeting called in accordance with paragraph 80 (2) (a) shall be postponed or not be held if in his/her or their opinion, as the case may be, there is not sufficient business of importance on the proposed agenda for such meeting: provided that due notice of the postponement or cancellation of the meeting shall forthwith be sent to all Directors and provided further that it shall not be competent to cancel 2 (two) consecutive quarterly meetings of the Board.
- (4) The Board may appoint such observers as it may from time to time deem appropriate to attend meetings of the CMSA.

Conducting Board Meetings electronically or participating in absentia in a Board meeting by electronic communication

81. (1) The CMSA is prohibited from providing for a Board meeting to be conducted entirely by electronic communication and for providing for one or more members of the Board who are unable to attend a Board meeting, to participate in the meeting by electronic communication.

Electronic voting at meetings of the Board

- (2) The CMSA is not prohibited from providing for electronic voting by Directors in attendance at meetings of the Board.

Notice of meetings of the Board

82. (1) The Board may determine the form and time for giving notice of its meetings, but –
- (a) such a determination must comply with any requirements set out in the Mol, or Rules; and
 - (b) no meeting of the Board may be convened without notice to all of the Directors, subject to paragraph 82(3).

- (2) Not less than 14 (fourteen) calendar days' notice shall be issued to Directors in respect of any meeting of the Board and not less than 2 (two) calendar days' notice shall be issued to the relevant Directors and other members involved in a committee of the Board, in respect of a meeting of such Board committee. Such notice shall include information as to the time and place of the meeting and the business to be considered. Notwithstanding the afore going, if in the opinion of the president of the CMSA or any 3 (three) members of the relevant committee, as the case may be, a case of emergency has arisen, a meeting may be convened on short notice and no business shall be transacted other than that for which such emergency meeting was called, unless with the unanimous consent of the Directors and other committee members present.
- (3) Except as otherwise provided by the Mol or Rules, if all of the Directors and other members of the Board committees:
- (a) acknowledge actual receipt of the notice;
 - (b) are present at a meeting; or
 - (c) waive notice of the meeting,

the meeting may proceed even if the CMSA failed to give the required notice of that meeting, or there was a defect in the giving of the notice.

Quorum for meetings of the Board

83. A majority of the Directors must be present at a meeting before a vote may be called at a Board meeting.

Voting at Board meetings

84. (1) At meetings of the Board:
- (a) each Director has one vote on a matter before the Board;
 - (b) a majority of the votes cast on a resolution is sufficient to approve that resolution; and
 - (c) in the case of a tied vote-
 - (i) the chairperson may cast a deciding vote, if the chairperson did not initially have or cast a vote; or
 - (ii) the matter being voted on fails, in any other case.

Chairperson of the Board

85. The president of the CMSA, or in his/her absence or if he/she is unable to act, such vice-president as is present, able to act and is designated by the meeting, shall take the chair at such meetings of the Board as he/she shall attend. Should neither the president nor a vice-president be present and able to act, the Directors present shall choose someone of their number to chair such meeting.

Minutes to be kept

86. Minutes shall be duly kept for the purpose:
- (a) of all appointments of officers by the Senate;
 - (b) of the names of the persons present at each meeting;
 - (c) of all orders made or directions given by the Board or Board committee; and
 - (d) of all resolutions and proceedings of general meetings of the CMSA, and of meetings of the Senate and Constituent College Councils and committees of the Senate;
- and any such minutes of any meeting of the CMSA, or of the Senate, or of any Constituent College Council or committee of the Senate, if purporting to be signed by the chairperson of such meeting or by the chairperson of the next succeeding meeting, shall constitute *prima facie* evidence of the matters stated in such minutes.
87. The minutes of the Board meetings, Senate meetings and general meetings shall be duly entered in books provided for the purpose.

Directors acting other than at meeting

88. (1) A decision that could be voted on at a meeting of the Board may instead be adopted by written consent of a majority of the Directors, given in person, by electronic communication or by postal ballot, provided that each Director has received notice of the matter to be decided.
- (2) A decision made in the manner contemplated in paragraph 88(1) above is of the same effect as if it had been approved by voting at a meeting of the Board.

BOARD COMMITTEES

89. (1) The Board may, subject to the prior written approval of the Senate, appoint any number of Board committees and delegate to such committees any authority of the Board.

- (2) Unless otherwise provided for in the Act, this Mol or the Rules, the members of such committees shall include:
 - (a) Directors; and
 - (b) members of the CMSA,

appointed by Senate to serve on such committee.
- (3) No person shall be appointed as a member of a Board committee, if he/she would be ineligible or disqualified from being a Director and any such appointment shall be a nullity.
- (4) A member of a Board committee shall cease to hold office as such immediately he/she would become ineligible or disqualified from being a Director.
- (5) Meetings and other proceedings of a committee of the Board consisting of more than 1 (one) member shall be governed by the provisions of this Mol regulating the meetings and proceedings of Directors.

STANDING COMMITTEES

When constituted and membership

90. (1) Standing committees shall be Board committees constituted immediately after each election of the Senators; such committees shall include the finance and general purposes committee, the examinations and credentials committee, the education committee and such other committees as the Board may deem appropriate.
- (2) Standing committees shall have the power, subject to the approval of the Senate, to appoint subcommittees whose membership may be extended to persons other than members of the CMSA with the consent and approval of the president of the CMSA. The president of the CMSA shall be *ex officio* chairperson of each standing committee, but he/she shall have power to delegate the duties of the chairperson of a given committee to any other member of that committee.
- (3) The standing committees shall, as far as practicably possible, consist of persons who are resident in the area in which the meetings of the said committees are to be held during their period of office and who are, by reason of such residence, readily available to serve on and attend meetings of the said committees.

SPECIFIC POWERS AND DUTIES OF STANDING COMMITTEES

Finance and General Purposes Committee

91. (1) The finance and general purposes committee shall meet at such intervals as are approved of by the Senate, and shall have the power to perform on behalf of the Board any ordinary matters of routine business, subject to such limitations as the Board may from time to time impose.
- (2) The committee shall have the power to authorise the expenditure for any purpose of the CMSA, of a sum not exceeding such limit as the Board may impose in respect of any one such purpose.
- (3) Except insofar as the levies of Constituent Colleges are concerned, no expense shall be incurred by any Council or committee, except the finance and general purposes committee, unless a sum of money has been voted by the Board for the special purpose of such Council or committee, or unless the Council of the relevant Constituent College has raised sufficient funds to cover the expense.

Examinations and Credentials Committee

92. (1) The examinations and credentials committee shall examine the credentials of examination candidates and shall have the power to reject candidates who do not fulfil the requirements of the MoI, the Rules and any regulations.
- (2) The committee shall report the examination results to the Senate after each set of examinations, in such form as the Senate may from time to time determine.

Education Committee

93. The education committee shall be responsible for the postgraduate educational activities of the CMSA.

SOCIAL AND ETHICS COMMITTEE

Constitution and rights of the committee

94. (1) There shall be a social and ethics committee:
- (a) to monitor the activities of the CMSA, having regard to any relevant legislation, other legal requirements or prevailing codes

of best practice, with regard to matters pertaining to the broad principles of:

- (i) social and economic development;
 - (ii) good corporate citizenship;
 - (iii) the environment, health and public safety;
 - (iv) consumer relationships;
 - (v) labour and employment;
- (b) to draw matters within its mandate to the attention of the Board; and
- (b) to report, through one of its committee members, to the members at an ordinary meeting on the matters within its mandate.
- (2) The social and ethics committee shall consist of:
- (a) not less than 3 (three) Directors or prescribed officers of the CMSA, at least one of whom shall be a Director who is not involved in the day-to-day management of the CMSA's business, and must not have been so involved within the previous 3 (three) financial years; and
 - (b) the company secretary.
- (3) The chairperson of the committee shall be required to present a report to members at the general meeting.
- (4) A social and ethics committee of a company is entitled to –
- (a) require from any Director or prescribed officer any information or explanation necessary for the performance of the committee's functions;
 - (b) request from any employee of the CMSA any information or explanation necessary for the performance of the committee's functions.
 - (c) attend any members' meeting;
 - (d) receive all notices of and other communications relating to any members' meeting; and
 - (e) be heard at any members' meeting on any part of the business of the meeting that concerns the committee's functions.
- (5) The CMSA must pay all the expenses reasonably incurred by its social and ethics committee, including, if the social and ethics committee considers it appropriate, the costs or the fees of any consultant or

specialist engaged by the social and ethics committee in the performance of its functions.

PROCEEDINGS OF MEETINGS CONSTITUENT COLLEGE COUNCILS AND COMMITTEES

95. The meetings and proceedings of any Constituent College Council or a committee shall be governed by the provisions in the Mol and/or the Rules which regulate the meetings and proceedings of the Senate so far as the same are applicable to meetings and proceedings of any Constituent College Council or committee and so far as such provisions are not superseded by any regulations made by the Senate.

RECORDS OF THE CMSA OPEN TO INSPECTION

96. The records of the CMSA shall at all times be open to the inspection of the Senators and the Directors.

INDEMNIFICATION OF SENATORS AND DIRECTORS

97. This Mol does not limit or restrict the authority of the CMSA to –
- (a) advance expenses to a Senator or Director, or indemnify a Senator or Director, in respect of the defence of legal proceedings, as set out in section 78 (3) of the Act;
 - (b) indemnify a Senator or Director in respect of liability, as set out in section 78 (5) of the Act; or
 - (c) purchase insurance to protect the CMSA, or a Senator, or Director as set out in section 78 (6) of the Act.

COMPANY SECRETARY

98. (1) In addition to being an *ex officio* Director, the CEO shall *ex officio* serve as the company secretary of the CMSA.
- (2) The responsibilities of the company secretary shall be governed by the Act, the Mol and the Rules of the CMSA.
- (3) The company secretary shall be permanently resident in South Africa and shall have the requisite knowledge and experience to carry out the duties of a company secretary.

Duties

99. (1) In terms of the Act, and without derogating from the provisions of the Mol, the company secretary shall be accountable to the Board and shall give such security (if any) as may be required by the Board.
- (2) The company secretary shall be responsible for observing the provisions of the Act, keeping the official copy of the Mol and Rules of the CMSA, entering therein any changes made to them, and preparing a revised edition when ordered by the Board.
- (3) The company secretary shall send out notices and agendas of all meetings of the Board, the Senate and/or the members, keep and prepare minutes of all meetings of the Board, the Senate and/or the members.
- (4) The company secretary shall be bound to secrecy regarding the proceedings at all meetings, and shall not divulge any matter to any person, except a Director, a member of the Senate or of a Council or committee who may not have been present at the meetings, and who in due course will receive the minutes or report of that meeting.
- (5) The company secretary shall be responsible for the administration of the CMSA, for management of the salaried employees of the CMSA and for all human resource related matters of the CMSA.
- (6) The company secretary shall draw up and publish the annual report of the Board and the Senate.
- (7) The company secretary shall be the public officer of the CMSA for purposes of the requirements of the South African Revenue Service.
- (8) The company secretary shall be responsible for the keeping and updating of the Register in terms of the Act.

AUDITOR

100. (1) The CMSA shall appoint an auditor at its ordinary meeting: provided that if an ordinary meeting does not appoint or reappoint an auditor, the Board must fill the vacancy in the office in terms of the procedure contemplated in section 91 of the Act.
- (2) A retiring auditor may be automatically re-appointed at an ordinary meeting without any resolution being passed, unless –
- (a) the retiring auditor is –
- (i) no longer qualified for appointment;

- (ii) no longer willing to accept the appointment, and has so notified the CMSA; or
 - (iii) required to cease serving as auditor, in terms of section 92 of the Act; or
 - (b) the CMSA has notice of an intended resolution to appoint some other person in place of the retiring auditor.
- (3) Any firm of auditors appointed by the CMSA as the auditor shall ensure that the individual responsible for performing the audit must comply with the requirements of section 90(2) of the Act, provided that –
 - (a) the same individual may not serve as the auditor or designated auditor for more than 5 (five) consecutive financial years;
 - (b) if an individual has served as the auditor or designated auditor for 2 (two) or more consecutive financial years and then ceases to be the auditor or designated auditor, the individual may not be appointed again as the auditor or designated auditor until after the expiry of at least 2 (two) further financial years.
- (4) The auditor shall have the rights and functions set out in section 93 of the Act.
- (5) If a vacancy arises in the office of auditor, the Board shall appoint a new auditor in accordance with section 91(2) of the Act.

FINANCIAL MATTERS

Remuneration of examiners, other assistants and consultants

101. Subject to any other provision of the Mol or the Rules, any examiners, other assistants or consultants who are from time to time appointed by the Senate may be remunerated for services rendered or to be rendered, as the Senate may from time to time determine.

Accounts to be kept

102. The Board shall cause such accounting records to be kept as are prescribed by section 28 of the Act. The said accounting records shall be subject to proper and regular audit as contemplated by law.

Where accounts to be kept

103. The books of account shall be kept at the Office and shall always be open to the inspection of any member of the Senate or the Board.

Audit of annual financial statements

104. The CMSA shall be required to annually audit its annual financial statements.

THE SEAL

Restriction in use and method of affixing

105. The Senate shall adopt a seal for the CMSA which shall bear such device and motto as the Senate may from time to time determine. The Senate shall provide for the safe custody of the seal, and ensure that the seal shall not be affixed except by the authority of the Board or the Senate or of a committee of the Senate and to such documents as have been duly signed under such authority by at least two (2) Senators and countersigned by one of the officers of the CMSA or any other person appointed by the Senate.