

THE MALAYSIAN SITE INVESTIGATORS ASSOCIATION

Regulations Governing the Registration of Supervisors

1. PREAMBLE

The Malaysian Site Investigators Association as part of its efforts to improve the quality of site investigation practices provided by its members has drawn up these regulations to govern the registration of site investigation supervisors employed by its members.

2. DEFINITIONS

In this set of regulations,

- a) “**MSIA**” means the Malaysian Site Investigators Association.
- b) “**Council**” means the Council of MSIA.
- c) “**Member**” means a valid member of MSIA.
- d) “**Clause**” means a clause of this set of regulations.
- e) “**Register**” means the register of site investigation supervisors maintained by MSIA.
- f) “**Supervisor**” means a person whose name is entered in the Register.
- g) “**Investigative Committee**” means the committee of three Council Members appointed by the Council from time to time to investigate a complaint of misconduct of any registered SI supervisor.
- h) “**Tribunal**” means the tribunal of three appointed by the Council to investigate a complaint which is not resolved by the Investigative Committee.

3. OBJECTIVES

The objectives of these regulations are to:

- a) Provide the mechanism to regulate site personnel of the site investigation industry.
- b) Promote, encourage, and support professionalism in the site investigation industry.

4. REGISTER

The MSIA shall keep a Register of Supervisors. The data entered into the Register shall include among other information the name, identity card number, year of registration, assigned registration number, and signature of each Supervisor.

5. REGISTRATION

An employee of a Member wishing to be a Supervisor shall submit to MSIA an application in the form prescribed by MSIA for this purpose. Every application endorsed by a Member shall be approved unless the applicant has previously been expelled from the Register.

A Supervisor's registration shall be considered to be in effect only when he is in the employment of a Member and any work undertaken by a Supervisor while he is not employed by a Member shall not be governed by this set of regulations.

6 FEES

Every applicant whose application has been approved shall upon payment of the following:

Payment	Amount (RM)	When payable
Registration fee	50	Upon application for registration
Annual fee	10	Annually

be entitled to undertake site investigation as a Supervisor. The security deposit shall be refunded when the Supervisor ends his registration except when the registration is terminated by MSIA because of the Supervisor's misconduct as defined under Clause 9.

When an applicant who has ceased to be a Supervisor under Clause 11(b) again applies to be a Supervisor, all fees shall be payable as if the applicant is applying for registration for the first time.

While the a registration card shall be issued free to a Supervisor upon registration, a fee of RM20 shall be payable to MSIA for every replacement of the card.

7. A REGISTERED SI SUPERVISOR'S DUTIES AND RESPONSIBILITIES

The duties and responsibilities of a Supervisor shall be to:

- a) Ensure that all works supervised by him have been duly and correctly carried out as specified in the contracts or in accordance to the relevant codes of practice.
- b) Authenticate all and only reports of site work supervised by him.

8. A MEMBER'S OBLIGATIONS AND RESPONSIBILITIES

An MSIA Member shall:

- a) Undertake every site investigation work under the supervision of a Supervisor.
- b) Report to MSIA any of his Supervisors' misconduct as defined under Clause 9.

9. A REGISTERED SI SUPERVISOR'S MISCONDUCT

A Supervisor shall be considered to have committed a misconduct if he:

- a) Authenticates any report based on work that he has not supervised.
- b) Authenticates any report which is based on work that has not been carried out according to the specifications of the contract for the work or in accordance to any code of practice specified for the work.
- c) Abets in the manufacturing of fraudulent data.

10. AN MSIA MEMBER'S MISCONDUCT

A Member shall be considered to have committed a misconduct if he fails to undertake any of the obligations or responsibilities described under Clause 8.

11. TERMINATION OF REGISTRATION

The registration of a Supervisor ends if he:

- a) Dies.
- b) Delivers to the Secretary of MSIA notice in writing of the Supervisor's intention to discontinue being in registration.
- c) Has been found guilty of misconduct as described under Clause 9.
- d) Has been registered based on incorrect information.

When a complaint has been lodged against a Supervisor, he shall not discontinue his registration until the complaint has been resolved.

12. COMPLAINT

The Engineer, Superintending Officer, or Employer of a site investigation contract undertaken by a Supervisor or the Council can make a complaint against the Supervisor or his Employer for misconduct as defined under Clauses 9 and 10. A Member who is the employer of the Supervisor may make a complaint against the Supervisor.

13. INITIATION OF COMPLAINT

A complaint except one made by the Council shall be in writing to the Secretary and contain particulars of the allegations on which the complaint is founded.

14. RESPONSE TO COMPLAINT

The Council or Investigative Committee if instructed by the Council to act on the Council's behalf shall within 10 days upon receipt of the complaint meet to consider and investigate the complaint by:

- a) Requiring the complainant to provide further particulars.
- b) Interviewing the Supervisor against whom the complaint is directed.
- c) Dismissing the complaint.
- d) Referring the complaint to the Tribunal.
- e) Determining that no further action should be taken in respect of the complaint.
- f) Ordering a repetition of the site investigation under the supervision of another Supervisor appointed by the Council or the Investigative Committee.

15. RESOLUTION OF COMPLAINT

The complaint is considered resolved when:

- a) The party making the complaint withdraws the complaint.
- b) The Supervisor against whom the complaint is directed delivers to the Secretary of MSIA notice in writing of the Supervisor's admission of guilt or intention to discontinue being in registration.
- c) The Council or Investigative Committee arrives at a conclusion after considering and investigating the complaint.

16. COMPOSITION OF TRIBUNAL

If the complaint is still not resolved after repeating the site investigation the Council shall appoint a Tribunal consisting of three persons as follows:

- a) One shall be a person of acknowledged eminence in the industry.
- b) One shall be a legal practitioner of not less than 5 years standing.
- c) One shall be a member of the Council.

17. RULES OF PRACTICE AND PROCEDURE FOR TRIBUNAL

The Tribunal shall have the power to regulate its own procedure and may make rules governing the practice and procedure of the Tribunal.

18. EVIDENCE

An appeal is to be dealt with by way of rehearing any fresh evidence or evidence in addition to or in substitution for any previous evidence which may be given.

The Tribunal is not bound to observe the rules of law governing the admission of evidence, but may inform itself of any matter in such manner as it thinks fit. (***Legal Advisor to be consulted on this.***)

19. NOMINAL COMPLAINANT

In any hearing before the Tribunal, a person appointed by the Council:

- a) May act in place of the actual complainant; and
- b) When so acting, is to be taken to be the person who made the complaint.

20. INTERVENTION BY THE COUNCIL

The Council or a Council Member may intervene and has the right to be heard in any hearing before the Tribunal.

21. NOTICE OF TIME AND PLACE OF HEARING

The Chairperson or a Deputy Chairperson of the Tribunal is to fix a time and place for the hearing and is to give not less than 14 days notice of the hearing to:

- a) The Supervisor concerned
- b) The Complainant
- c) The Council.

22. REPRESENTATION BEFORE TRIBUNAL

At a hearing conducted or appeal heard by the Tribunal, the registered SI supervisor, and any complainant concerned, and the Board are entitled to attend and to be represented by legal practitioners or solicitors or other advisors.

23. LEAVE TO APPEAR

The Tribunal may permit any other person to appear whether in person or to be represented by a legal practitioner or another advisor at the hearing of a complaint or appeal if the Tribunal is satisfied that it is appropriate for that person to appear.

24. ADJOURNMENT

The Tribunal may adjourn a complaint or an appeal for any reason it thinks fit.

25. POWERS OF TRIBUNAL

On the hearing of a complaint or appeal the Tribunal may:

- a) Dismiss the complaint or appeal.
- b) Take no action.
- c) Caution or reprimand the Supervisor or caution the Member who was the supervisor's employer.
- d) Direct that such conditions as it considers appropriate be imposed on the Supervisor.
- e) Direct the Supervisor be expelled from the Register.
- f) Readmit the person as a Supervisor.
- g) Vary or confirm any decision of the Council or Investigative Committee.

26. DECISION OF TRIBUNAL

The decision of the Tribunal shall be that of the majority of the Tribunal.

27. ANNOUNCEMENT OF DECISION OF TRIBUNAL

The decision of the Tribunal shall be submitted in the form of a report to the Council stating the case, evidence, testimonials, arguments, bases for its decision, and any other information pertinent to the hearing or appeal and the Council may at its sole discretion announce either in part or in full in any manner the findings of the Tribunal.

28. COST OF INVESTIGATION OR TRIBUNAL

The cost of an investigation of any complaint shall be borne by:

- a) The complainant if the complaint has been found to be untrue.
- b) The Supervisor and/or Member who has employed the Supervisor under investigation if the complaint has been found to be true, or
- c) By both the complainant and the Member referred to in the preceding sub clause in any ratio as the Council or Tribunal shall decide.

29. APPEAL TO TRIBUNAL

Any appeal against the Tribunal's decision must be made in writing within two weeks of the announcement of the decision.