



## **MEMBERSHIP RULES**

### **Introduction**

In terms of clause 6.1.2 of the SAMRO Memorandum of Incorporation (“MOI”), the Board may make, amend or appeal rules regulating, *inter alia*, the governance of SAMRO in respect of the qualifications for classes of membership and categorisation of members.

This document therefore sets out the membership rules of SAMRO as contemplated in the MOI.

### **1. Admission Requirements for SAMRO Membership**

#### **1.1 General Requirements**

There are certain criteria which are applied. The most fundamental is that your musical works should have been broadcasted or performed in public significantly within the past few years or in the previous distribution cycle, and your earnings have reached the minimum threshold for admission to membership.

#### **1.2 Other Requirements**

##### **1.2.1 Authors**

You must have completed the prescribed application form, the SAMRO Deed of Assignment, and also as have formally notified all musical works in which you have an interest on the official SAMRO Notification of Works form.

Your musical work(s) should have achieved significant performances so as to accrue royalties to warrant performing right administration by SAMRO.

### **1.2.2 Publishers**

You must be registered with the Companies and Intellectual Property Commission (“the CIPC”). The publisher must have applied for SAMRO membership by completing the prescribed application form, and the SAMRO Deed of Assignment. Copies of the deeds of assignments between the Publisher and their authors/composers must be supplied to SAMRO. In the case of representation of foreign works, copies of the sub-publication agreements must accompany the application documentation.

## **2. Classes / Categories of Membership**

SAMRO has two classes of Members, voting Members (being the Performing Rights Members) and non-voting Members.

Performing Rights members are categorised into Associate Members and Full Members. In addition to this, Membership is also categorised in respect of those Members that are:

- Authors;
- Author’s Heirs; and
- Publishers;

### **2.1 Associate Membership**

#### **2.1.1 Authors**

To become an Associate Member, you must have earned at least R100-00 (one hundred Rand) in royalties within the 3 (three) preceding years.

You must also comply with the requirements as set out in item 1 above.

#### **2.1.2 Publishers**

To become an Associate Member, you must have earned at least R1000-00 (one thousand Rand) in royalties within the 3 (three) preceding years.

You must also comply with the requirements as set out in item 1 above.

### **2.1.3 Your rights as an Associate Member:**

- You participate fully in royalty distributions;
- You participate in GORP distributions irrespective of royalty earnings in the previous distribution;
- You participate proportionally in GORP allocation in addition to the pre-allocation;
- You will receive the SAMRO Directors and Financial reports each year as well as regular correspondence;
- You have the right to attend and vote at General Meetings;
- You will have one vote on a show of hands or, on a poll, one vote for every Rand of South African royalties earned attributable to works of South African origin in the immediately preceding distribution, subject to a maximum of 2% of the total votes.

## **2.2 Full Membership**

For an Associate to become a Full member, the following point system will be used:

### **2.2.1 The following point system, for the number of active years, shall be used for an associate AUTHOR member of SAMRO to become a full author member:**

- *A minimum of 5 active years of membership shall qualify a member for 10 points.*
- *A minimum of 10 active years of membership shall qualify a member for 15 points.*
- *A minimum of 15 active years of membership shall qualify a member for 20 points.*
- *A minimum of 20 active years of membership shall qualify a member for 30 points.*

### **2.2.2 The following point system, for the number of active years, shall be used for an associate PUBLISHER member of SAMRO to become a full publisher member:**

- *A minimum of 5 active years of membership shall qualify a member for 10 points.*
- *A minimum of 10 active years of membership shall qualify a member for 15 points.*
- *A minimum of 15 active years of membership shall qualify a member for 20 points.*
- *A minimum of 20 active years of membership shall qualify a member for 30 points.*

**2.2.3 The following point system, for documented musical works, shall be used for an associate AUTHOR member of SAMRO to become a full author member:**

- *A minimum of 60 musical works documented with SAMRO shall qualify a member for 10 points.*
- *A minimum of 90 musical works documented with SAMRO shall qualify a member for 15 points.*
- *A minimum of 140 musical works documented with SAMRO shall qualify a member for 20 points.*
- *A minimum of 190 musical works documented with SAMRO shall qualify a member for 30 points.*

**2.2.4 The following point system, for documented musical works, shall be used for an associate PUBLISHER member of SAMRO to become a full publisher member:**

- *A minimum of 700 musical works documented with SAMRO shall qualify a member for 10 points.*
- *A minimum of 1000 musical works documented with SAMRO shall qualify a member for 15 points.*
- *A minimum of 1500 musical works documented with SAMRO shall qualify a member for 20 points.*
- *A minimum of 2000 musical works documented with SAMRO shall qualify a member for 30 points.*

**2.2.5 The following point system, for the average earning, shall be used for an associate AUTHOR member of SAMRO to become a full author member:**

- *A minimum average earning over the 3 (three) preceding years of R 10 000 shall qualify a member for 10 points.*
- *A minimum average earning over the 3 (three) preceding years of R 20 000 shall qualify a member for 20 points.*
- *A minimum average earning over the 3 (three) preceding years of R 30 000 shall qualify a member for 30 points.*
- *A minimum average earning over the 3 (three) preceding years of R 50 000 shall qualify a member for 40 points.*

**2.2.6 The following point system, for the average earning, shall be used for an associate publisher member of SAMRO to become a full publisher member:**

- *A minimum average earning over the 3 (three) preceding years of R 50 000 shall qualify a member for 10 points.*
- *A minimum average earning over the 3 (three) preceding years of R 100 000 shall qualify a member for 20 points.*
- *A minimum average earning over the 3 (three) preceding years of R 150 000 shall qualify a member for 30 points.*
- *A minimum average earning over the 3 (three) preceding years of R 250 000 shall qualify a member for 40 points.*

**2.2.1 Your rights as a Full Member**

- You participate fully in royalty distributions;
- You participate in GORP distributions irrespective of royalty earnings in the previous distribution;
- You participate proportionally in GORP allocation in addition to the pre-allocation on a phasing-in basis;
- You will receive our Directors and Financial reports each year as well as regular correspondence;
- You have the right to attend and vote at the General Meeting;

- You will have one vote on a show of hands or, on a poll one vote for every rand of South African Royalties earned attributable to works of South African origin in the immediately preceding distribution, subject to a maximum of 2% of the total votes; and
- You are eligible to be elected as a SAMRO Board member.

### **3. When Does SAMRO Membership Cease?**

#### **3.1 Termination of Membership by the Member**

You can resign from SAMRO in terms of clause 8 of the MOI. For more information, please contact our Rights Holder Services division.

#### **3.2 Termination of Membership by SAMRO**

If the Board of Directors plans to cancel your membership, you will be given notice at least 3 (three) months before the Board's meeting at which the matter will be considered.

#### **3.3 Transfer of Membership**

Members may elect to transfer their membership from SAMRO to any CISAC affiliated society of their choice. Transfer of membership will be delayed if the member has outstanding obligations to SAMRO.

#### **3.4 Termination Subsequent to the Death of a Member**

When an author or successor member dies, there are several procedures that are followed. If the member has left instruction in a Will as to what to do with their copyright/royalties, SAMRO acts in such a manner that the royalties are paid as set out in a deceased member's Will. It is important to note that a deceased member's copyright can continue to be represented by SAMRO for 50 years after the member's death.

### **3. Successor Membership**

When an author member has died, the deceased member's immediate family must report the death and lodge the death certificate with SAMRO. We need to know as soon as possible when a member dies, so that we can establish to whom future royalties should be paid. SAMRO will pay royalties to the beneficiaries, as stated in the Will or the letter from the Master of the High Court, and their subsequent heirs until expiration of the copyright in the musical works.

Successors to associate or full members are admitted as associate or full members. Once they have been admitted, associate successor members can be promoted to full successor membership in the same way as author members, can be promoted to full membership.

SAMRO will pay royalties to the lawful beneficiary. If a deceased member's Will states that the royalties should be shared equally between, for example three children, the children will normally become the successor members. Sometimes the beneficiaries of a Will may tell us to pay a portion of the royalties to another party.

If the deceased member did not leave a Will, the law will determine who inherits the deceased member's assets, including the deceased member's copyrights and royalty payments from SAMRO.

Author members are encouraged to ensure that they draw up valid Wills giving instructions as to what should be done with their copyrights / royalties. Members should also let their families or legal advisers know that they should contact SAMRO upon the member's death.

### **4. The SAMRO Retirement Annuity Fund**

At the establishment of SAMRO in 1962, its Board felt that, as soon as the finances of the organisation would make it possible, provision should be made for its members in their old age, and also for the bereaved dependents in case of the death of a member.

Such a step became possible in 1969 through a farsighted provision adopted by the international sighted provision adopted by CISAC of which SAMRO is a member. According to that provision in its reciprocal agreements, every member-organisation

is authorised to retain a small portion of its distributable royalties to devote to two purposes only – the provision of pensions or similar assistance for its members, and the encouragement of the national arts.

Taking advantage of the concession, SAMRO established the SAMRO Retirement Annuity Fund (“SRAF”) for its members, which was duly registered by the Registrar of Pension Funds in the terms of the Pension Funds Act of 1956.

The creation of SRAF was an important and historical development, as it was the first of its kind in Southern Africa. For the first time, provision was made for Southern Africa’s composers and authors of music in their old age.

SRAF is registered in terms of the Pension Funds’ Act as a non-contributory retirement annuity fund.

Composer/author members of SAMRO under the age of 70 years become eligible for membership of the Fund once they have received their first royalty credit in one of SAMRO’s annual distributions of performing royalties. At the end of that year they are automatically elected as members of the Fund when the first allocation as the contribution on their behalf is made by SAMRO to the fund. The allocations of the contributions to members are made in the proportion of their royalty earnings, as explained in more detail under the heading contributions below. An account is then opened in the new member’s name in the books of the fund, and all contributions by SAMRO on behalf of the members thereafter credited to that account. When a member decides to retire, the monies in the account re devoted to provide an annuity or “pension”; should the member die before retirement, the benefits go to the dependants, or are distributed in terms of the member’s will.

## **5.1 Retirement**

A composer/author never really “retires”. For the purposes of SRAF, retirement must be deemed to take place at some point. In terms of SRAF Rules, drafted under the Pension Funds Act, retirement ***may not take place before the age of 55 and must take place not later than the age of 70***. A member, may, therefore, elect to receive a ‘pension’ at any time after the age of 55. Once members have retired, ***no further***

***contributions can be made by SAMRO on their behalf to SRAF, and they can receive no further benefits from SRAF.***

For the guidance of members who may be considering “retirement”, it is important to note that in terms of SRAF Rules and current legislation, members may not draw the full amount of their account in cash. They may draw a maximum of one-third in cash.

For the balance (two thirds), an annuity must be purchased from a registered life assurance company. Only if the full amount of the account cannot provide an annuity of at least R 1 800 per year, then the member may draw the full amount of the account in cash.

When a member retires from SRAF, their membership of SAMRO remains unaffected. When performance of works accrue royalties and GORP earnings will still take place in the normal manner.

As explained above, SRAF is wholly financed from the monies available to SAMRO in terms of the CISAC provision already mentioned, and the annual contributions to SRAF made by SAMRO on behalf of its members. It is important to remember that, monies may be used only for the purpose of providing pensions or similar assistance to SAMRO’s members, and for no other purpose. SRAF is, therefore, totally non-contributory from the side of the members.

## **5.2 Income Tax Effect of Contributions**

For income tax purposes the annual amount allocated as a contribution of a member should be shown by him as income from SAMRO in the same way as his annual distribution credit. The amount must, however, then again be shown as a deduction, being a current contribution to an approved retirement annuity fund. The net effect should be nil, as it amounts merely to an addition followed by a corresponding deduction. The only case where there may be tax effect would be where a member’s total contributions to all pension and retirement annuity funds to which he may belong, including SRAF, exceed the limits set by Income tax legislation for the relevant year.

### **5.3 Administration**

The administration of SRAF is handled by SAMRO. As SRAF has to carry its own expenses in terms of its Rules, SAMRO charges the Fund an annual administration fee for this service. This fee amounts to a percentage of the contributions allocated to members. The administration fee forms part of SAMRO's income and accordingly again accrues to SAMRO's members and affiliated societies in SAMRO's annual distributions as non-royalty revenue.

### **5.4 Guidelines and Regulations of SRAF**

Copies of the Fund's Rules and Regulations and other relevant information may be obtained from the Fund's Secretary who may be contacted as the following address:

SAMRO Retirement Annuity Fund

P O Box 31609

Braamfontein

2017.

## **5. SAMRO Funeral Benefit Scheme**

Over the years it was felt by various groups of members that SAMRO should consider the establishment of a scheme specifically dedicated to provision for expenses associated with the funeral of a member or his/her direct family. SAMRO's Board of Directors felt that it was possible to finance the establishment of such a scheme out of the CISAC Provision.

The funeral benefits cover provided by the Scheme currently extends to SAMRO's writer members under the age of 75 years, irrespective of whether they are members of the SRAF or not, as well as their spouse and children.

The scheme is currently underwritten and administered by SAFRICAN Insurance Company who provide the funeral cover for author / composer members of SAMRO eligible to participate in the scheme.

Notification of a death and the lodging of claims must be directed to:

SAMRO Funeral Benefit Scheme

Writer Services Department

P O Box 31609

Braamfontein

2017

Tel: (086) 117 2676 / (011) 712 8000.

e-mail address: [customerservices@samro.org.za](mailto:customerservices@samro.org.za)

Fax: 086 674 4391.