

**The Hong Kong Institute of Surveyors
Extraordinary General Meeting
21 November 2017**

**Proposed amendments to the disciplinary procedures under the
HKIS Bye-Laws and Rules of Conduct**

EXPLANATORY NOTES

Introduction

- 1 Every member of the HKIS is required to maintain a high and honourable standard of professional conduct and shall discharge his/her duties in accordance with the highest standard of business ethics as provided under the Bye-Laws and Rules of Conduct of the Institute.
- 2 To keep pace with the development of the profession and rapid changes in the socio-economic environment, a comprehensive review of the existing professional conduct and disciplinary related procedures of the HKIS was conducted.
- 3 To enhance the disciplinary procedures and make the disciplinary provisions more comprehensive, changes to the Bye-Laws and Rules of Conduct are being proposed.

Background

- 4 Advice on the disciplinary procedures of HKIS, including the re-drafting of the Bye-Laws and Rules of Conduct were received from Senior Counsel in 2016.
- 5 The General Council formed a Working Group on Review of Disciplinary Procedures to study and follow up on the suggestions as raised by Senior Counsel for revising the disciplinary procedures by way of amending the Bye-Laws and Rules of Conduct.
- 6 The amendments to the Bye-Laws and Rules of Conduct have been recommended to provide for a prescribed order of procedure within the Rules of Conduct and to give the Disciplinary Board a wider discretion to issue the requisite directions determining the relevant practice and procedure.
- 7 The key changes to the Rules of Conduct and Bye-Laws are as follows:-
 - Reformulation of the Standards of Conduct under Rule 1 to a standard of 'professional misconduct', and a clarification that the Standards are non-exhaustive in nature and include other unwritten norms, and the consequences of breach, by the amendments of Rule 1 and Bye-Law 6.2.
 - A simplified and clearer procedure for the investigation of complaints and the conduct of hearings by the amendments to Bye-Law 6.3 and Rule 4, and the addition of Rules 4.4 to 4.11.
 - A lower standard of proof for finding a member guilty of professional misconduct, by an amendment of Rule 4.3.4 (now Rule 4.7).
 - Implementation of a one-tier disciplinary procedure so that all decisions of the Disciplinary Board, and the General Council in implementing it, is final, by an amendment to Bye-Law 6.5.
 - Additional provision for the Disciplinary Board's use of a Legal Adviser, and its role in the course of disciplinary proceedings under Rule 5.

- 8 An open discussion forum was held on 23 June 2017 to share with members the proposed amendments and views of the Working Group.
- 9 After the members' consultation and a review of the comments received from members on the proposed amendments, the Working Group presented the proposed amendments to the Bye-Laws and Rules of Conduct to the General Council for consideration.
- 10 The proposed amendments were approved in principle by the General Council on 25 September 2017.

Implementation

- 11 To effect the changes to the disciplinary procedures, it is necessary to amend the existing provisions under the Bye-Laws and Rules of Conduct as proposed, and that the amended Rules of Conduct shall be ratified as required under Bye-Law 6.1.