
General Notice

MINISTRY OF MINES AND ENERGY

No. 496

2017

CODE OF PROFESSIONAL CONDUCT OF GEOSCIENCE COUNCIL OF NAMIBIA: GEOSCIENCE PROFESSIONS ACT, 2012

Under subsection (2) of section 31 read with subsection (1) of that section of the Geoscience Professions Act, 2012 (Act No. 3 of 2012), the Geoscience Professions Council publishes the Code of Professional Conduct as set out in the Schedule.

A. NGUNO
PRESIDENT OF COUNCIL

Windhoek, 27 November 2017

SCHEDULE

CODE OF PROFESSIONAL CONDUCT OF GEOSCIENCE PROFESSIONALS OF NAMIBIA

Preamble

1. (1) The purpose of the code of ethics is to commit registered persons to uphold and enhance the honesty, honour, integrity and dignity of their professions, so that the registered persons and their professions merit the highest esteem by the community.

(2) A registered person has a duty to -

(a) maintain the highest professional and ethical standards; and

(b) comply with the required professional standards contained in this code of conduct.

Duty to uphold welfare, health and safety of community

2. A registered persons must -
 - (a) avoid assignments that may create a conflict between the interests of their client or employer and the public interest;
 - (b) work in conformity with acceptable technological standards and not in such a manner as to jeopardise the public welfare, health or safety, or the environment;
 - (c) endeavour at all times to maintain technological services essential to public welfare;
 - (d) in the course of their professional life, endeavour to promote the well-being of the community; or
 - (e) contribute to public discussion on scientific and technological matters in their area of competence.

Duty to act in a manner to enhance honesty, integrity, honour and dignity of profession

3. A registered person must -
 - (a) not be involved with any business or professional practice that is known to be of a fraudulent or dishonest nature;
 - (b) not use association with other persons, corporations or partnerships to conceal unethical acts and relationships;
 - (c) not knowingly continue in partnership with, nor act in professional matters with any person who has been removed from the register of registered persons because of unprofessional conduct; or
 - (d) provide an opinion that is objective and reliable, to the best of his or her knowledge and ability.

Duty not to take on functions of an expert other than that of Geoscientists

4. A registered person must -
 - (a) inform their employer or client and make appropriate recommendations on obtaining further advice, if an assignment requires qualifications and experience outside of their field of competence;
 - (b) not describe themselves, nor permit themselves to be described, nor act as a consultant or contractor unless they are a registered person; or
 - (c) not give professional opinions, make a report, or give legal testimony, without being thoroughly informed of the purpose for which the opinion, report or testimony is required and the degree of completeness of information on which it is based should be made clear.

Duty to build professional reputation on merit and not to compete unfairly

5. A registered person must -

- (a) not attempt to supplant another geoscientist, employed or consulting, who has been duly appointed;
- (b) not undertake professional work on a basis that involves an undisclosed speculative fee or remuneration that is conditional on implementation of the work;
- (c) not falsify or misrepresent his or her own qualifications, experience and prior responsibility or those of his or her associate;
- (d) not maliciously or carelessly do anything to injure, directly or indirectly, the reputation, prospects or business of others;
- (e) not use the advantages of a privileged position to compete unfairly with others;
- (f) exercise due restraint in explaining their own work and refrain from unfair unjustified criticism of the work of another;
- (g) give proper credit for professional work to those to whom credit is due and acknowledge the contribution of subordinates;
- (h) refrain from plagiarism in both oral and written communications and will not submit the same professional paper for publication in more than one peer review journal; or
- (i) not personally, or through any other agency, attempt to obtain consulting work by way of touting or bribery.

Duty to apply skills and knowledge as faithful agents and trustees in professional interests of client or employer

6. A registered person must -
- (a) at all times avoid all known or potential conflicts of interest;
 - (b) when acting as administrator of a contract, be impartial as between the parties in the interpretation of the contract;
 - (c) not accept compensation, financial or otherwise, from more than one party for services on the same project, unless the circumstances are fully disclosed to, and agreed to by all interested parties;
 - (d) not solicit or accept financial or other valuable considerations, from material or equipment suppliers, contractors or their agents for specifying their products unless this is fully disclosed;
 - (e) advise their client or employer when as a result of their studies they believe that a project will not be viable;
 - (f) not disclose or use confidential information gained in the course of their employment without express permission; or
 - (g) not, without a satisfactory reason, destroy calculations or documentary or other evidence required for verification of his or her work.

Duty to give evidence, express opinions or make statements in an objective and truthful manner

7. A registered person must -
- (a) give objective and accurate professional reports, statements or testimony before any tribunal;
 - (b) express an opinion only on the basis of adequate knowledge and technical competence in the area, but this must not preclude a considered speculation based intuitively on experience and wide relevant knowledge; or
 - (c) reveal the existence of any interest, pecuniary or otherwise, that could be taken to affect their judgement in a technical matter about which they are making a statement or giving evidence.

Duty to continue professional development throughout career and actively assist and encourage those under direction to advance their knowledge and experience

8. A registered person must -
- (a) strive to widen their knowledge and improve their skill in order to achieve a continuing improvement of the profession;
 - (b) maintain personal competence by keeping abreast with developments in his or her field or speciality, by either research, further studies, reading, attending conferences, courses or lectures;
 - (c) encourage their professional employees and subordinates to further their education; or
 - (d) endeavour to actively support professional organisations that further the general interests of the profession.

Duty to comply with all laws within the country of work

9. A registered person must -
- (a) inform themselves of the laws and regulations relating to the mineral industries in Namibia and in other countries where they may be engaged as an employee or consultant relevant to their consulting work;
 - (b) observe the requirements of stock exchanges in respect to reports on mineral exploration and assessment issued by listed companies; or
 - (c) observe the relevant laws, conventions and regulations relating to intellectual property with respect to commercial, consulting and academic intellectual property.

Complaint

10. (1) A person who wishes to lodge a complaint of unprofessional conduct on the part of a registered person as contemplated in section 34(1) of the Act must do so in writing addressed to the secretary, providing a full statement and evidence of the unprofessional conduct together with a fee set out in Annexure 2 of the Regulations which will be refunded should the complaint be justified.

(2) A registered person against whom a complaint of unprofessional conduct has been lodged must be notified within thirty days of the enquiry into such unprofessional conduct using Form 5 set out in Annexure 1 of the Regulations.

Investigation of unprofessional conduct

11. (1) The Council must investigate the conduct of any registered person which in their opinion may require disciplinary action against such a registered person.

(2) The Council must investigate conduct where a complaint is lodged.

(3) If the Council reasonably believes, either of its own motion or on account of a complaint received, that any registered person is guilty of unsatisfactory conduct as provided in this code of conduct, it may cause an investigation to be made into the alleged conduct of the member.

(4) For the purpose of conducting an investigation referred to in subrule (3), the Council, where the investigation is to be conducted on account of a complaint received, may -

- (a) take statements from witnesses; and
- (b) require that the person lodging the complaint, furnish such further evidence, written or oral, documentary or otherwise, as it may require.

(5) The Council must, by written notice to the registered person whose conduct is the subject of the investigation, inform him or her of the complaint and furnish such particulars of the complaint as may be necessary to enable him or her to reply.

(6) The Council may direct that the registered person under investigation must -

- (a) reply in writing to the Council within a stipulated time;
- (b) furnish such further evidence, written or oral, documentary or otherwise, as it may require; or
- (c) appear before the Council, in which event the registered person must be informed that he or she is entitled to appear either personally or by any other person acting as his or her representative.

Breach of code of conduct

12. (1) After completion of an investigation conducted by the Council, the Council may take a decision whether a registered person breached this code of conduct.

(2) For an unprofessional conduct to occur, the alleged conduct must be sufficient in nature to bring the registered person and the profession into disrepute with the community.

(3) Conduct that could potentially merit an outcome contemplated in subrule (2) include -

- (a) any breach of the specific rules of the code of conduct;
- (b) dishonesty and misrepresentation;
- (c) professional incompetence;

(d) defamation; or

(e) criminal conduct.

(4) Any breach without dishonesty, intent, repetition or reckless incompetence is considered as non-compliance and will not result in suspension.

(5) Any breach of any rule of the code of conduct that is characterised by dishonesty, intent, reckless incompetence and repeated code violations would be taken as *a prima facie* case of unethical behaviour and may give rise to a suspension or expulsion.

(6) A person who is found guilty of unprofessional conduct is liable to -

(a) a suspension for a period of time as the Council may determine;

(b) an expulsion; or

(c) a fine as set out in Annexure 2 of the Regulations.
