

GOVERNMENT NOTICE NO. 580 Published On 9/8/2019

THE CHEMIST PROFESSIONALS ACT
(ACT. NO.9 OF 2016)

REGULATIONS

(Made under section 35(2)(e))

THE CHEMIST PROFESSIONALS (INQUIRY) REGULATIONS, 2019

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PART I
PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the Chemist Professionals (Inquiry) Regulations, 2019.

Interpretation
Act No.
9 of 2016

2. In these Regulations, unless the context otherwise requires-
- “Act” means the Chemist Professionals Act;
- “assistant chemical laboratory technologist” has the meaning ascribed to it in the Act;
- “certificate” has the meaning ascribed to it in the Act;
- “chemist” has the meaning ascribed to it in the Act;
- “chemical laboratory technologist” has the meaning ascribed to it in the Act;
- “chemist professionals” has the meaning ascribed to it in the Act;
- “committee” has the meaning ascribed to it in the Act;
- “Council” has the meaning ascribed to it in the Act;
- “legal representative” means an advocate, head of institution or supervisor of chemist professional;
- “Minister” has the meaning ascribed to it in the Act.

PART II
STANDARDS OF PRACTICE FOR CHEMIST PROFESSIONALS

Scope of practice

- 3.-(1) Without prejudice to the generality of section 28 of the Act, a chemist professional, in performing his duties and

responsibilities, shall be guided by the standards of best practice.

(2) Notwithstanding the provision of subregulation (1), a chemist professional in discharging his duties shall-

- (a) not conduct himself in such manner as to put the profession or Council reputation into disrepute; and
- (b) abide to the Code of Ethics and Conduct as prescribed in the First Schedule to these Regulations.

(3) A chemist professional who breaches any provisions of section 28 of the Act and the Code of Conduct and Ethics provided for under the First Schedule to these Regulations may be subjected to inquiry proceedings.

PART III LODGING OF COMPLAINT, PROCEDURES FOR INQUIRY AND FINAL DECISION

Complaint against
chemist
professional

4.-(1) Any complaint against a chemist professional shall be lodged to the Registrar who shall forward the same to the Council.

(2) Where a complaint is made by a person or body of persons against a chemist professional pursuant to section 28(2) and (3) of the Act to the effect that the chemist professional is unfit to practice, such complaint shall be lodged in writing and addressed to the Council or any person acting in that behalf, stating the ground of the act complained of.

(3) Subject to requirements of subregulation (2), the Council or any other person acting on behalf of the Council shall, respond in writing to the complainant within fourteen days.

(4) The complaint under subregulation (1), shall contain the following information-

- (a) particulars of the complainant including name, address and mobile (telephone) number;
- (b) particulars of the chemist professional including name, address and mobile (telephone) number;
- (c) written statement made by the complainant or any person acting on his behalf or any other person interested in the act or omission;
- (d) details of the complaint including incidences, if

any;

- (e) name of the complainant, signature and date; and
- (f) any document or information that may assist the inquiry, if any.

(5) Subject to subregulation (4), the complaint shall be in the manner set out in the Second Schedule to these Regulations.

(6) Where a complainant at any time before the preliminary inquiry satisfies that there are no sufficient facts to proceed with complaint against chemist professional may, withdraw the complaint.

Notice of
preliminary
examination

5.-(1) The Registrar shall, within seven working days:

- (a) after receiving a complaint, register it and call for further information on the allegations where necessary;
- (b) issue a notice of preliminary examination to the respondent of the complaint by forwarding a copy of the complaint and request a written response within fourteen working days from the date of receipt of the notification as prescribed in the Third Schedule.

(2) If the respondent fails to respond to the Registrars notice within the specified period, the Registrar shall-

- (a) declare that the respondent is in contempt of Council, and shall order the respondent to submit his response within fourteen days;
- (b) warn the respondent that the written response referred to in paragraph (a) may be used as evidence against him;
- (c) submit the complaint together with any further information referred to under paragraph (a) and respondents reply to the Council.

(3) Upon receiving information from the Registrar, the Council shall submit to the Ethics and Disciplinary Committee which shall-

- (a) conduct investigation on the complaints received;
- (b) conduct hearing;

- (c) call witnesses from both parties;
- (d) make recommendation and submit to the Council for determination.

Procedure for
conducting
preliminary
inquiry

6.-(1) The Ethics and Disciplinary Committee after due consideration of the matter and determination that there are no grounds for any inquiry it shall forward its recommendation to the Council for determination.

(2) Subject to sub-regulation (1), the Council shall direct the Registrar to inform the parties of its decision and stating the reason for such decision.

Procedure for
conducting full
inquiry

7.-(1) The Council shall, where it is of the opinion that a *prima facie* case is established by the Ethics and Disciplinary committee, direct full inquiry to be held.

(2) The Council shall give opportunity to the chemist professional against whom misconduct is alleged to appear before it, and may be represented by a legal representative.

(3) Where a chemist professional fails to appear at the inquiry without reasonable excuse and the Council is satisfied that a notice was duly served, the Council may proceed with the inquiry as if the chemist professional was present.

(4) The Council may, after due inquiry made in accordance with the provision of this regulation-

- (a) order the removal of the name of chemist professional from the register, roll or list;
- (b) order suspension from the practice of the chemist professional for such period as the Council may consider necessary;
- (c) caution, censure or otherwise reprimand the chemist professional; or such other punishment as may be prescribed by the Council;
- (d) order payment of costs involved in the inquiry or such other cost as may be appropriate.

(5) The Registrar shall, within seven days after the determination of the inquiry communicate the decision of the Council to the parties stating the reason for the decision.

(6) The Council shall have power to summon any witness and may require such witness to produce any document for the purpose of the inquiry.

Holding of full inquiry

8.-(1) The Council Shall, on receipt of the recommendation of the Ethics and Disciplinary Committee, and if there is no response received by the due date as contemplated, direct the Registrar to formulate charge sheet and issue a notice to the respondent stating the date, time and place where full inquiry will be held.

(2) The notice and the charge sheet shall be served on the respondent or his representative by hand, registered post or electronic communication at his address within fourteen days prior to the date of inquiry.

(3) The notice and charge sheet shall be as prescribed in the Fourth Schedule.

Constitution of full inquiry

9.-(1) The full inquiry shall constitute the following members:

- (a) Chairman of the Council or a member of the Council appointed by the Chairman to act on his behalf;
- (b) members Council;
- (c) Registrar; and
- (d) complainant;

(2) The quorum of the Council during full inquiry shall be not less than two third of the members.

Request for additional information

10.-(1) A request by the respondent or his legal representative for additional information or particulars of the charges as formulated by the Registrar shall be received by the complainant at least seven days before the date of the inquiry.

(2) The Registrar shall furnish his written reply to a request for further particulars to the respondent or his legal representative within seven days from date of receipt of the request.

(3) The Registrar shall not respond to any request for further particulars received out of seven days stated.

plea bargain prior
to inquiry

11.-(1) In order to determine the issues in dispute, the Registrar shall arrange a pre-hearing session, which shall be attended by both parties or their legal representatives at least three days before the date of the inquiry.

(2) The issues in dispute shall be determined as follows:

- (a) the respondent or his legal representative shall indicate issues admitted and disputed;
- (b) the respondent or his legal representative shall indicate how he intends to plead to the charges;
- (c) copies of all documents, reports, notes, and any other exhibits which either party intends to use at the inquiry shall be furnished to the other party;
- (d) perusal of the originals of the documents, reports, notes, and any other exhibits referred to in paragraph (c) is allowed;
- (e) admissions may be made by both parties with regard to allegations or exhibits;
- (f) a summary of the opinion of an expert witness that a party intends to call at the inquiry shall be furnished to the other party; and
- (g) any other matter concerning the inquiry shall be resolved.

(3) Minutes of the pre-hearing session shall be kept and signed by both parties or their legal representatives for submission to the Council at the inquiry.

Place of inquiry
and procedures

12.-(1) The place where the inquiry is held shall be open to the public provided that the Council, if it thinks fit, may at any stage of inquiry exclude the public generally or any particular person.

(2) The Chairperson of the Council shall ask the respondent or his legal representative, to plead to the charge and the plea shall be recorded.

(3) If the respondent is not present at the inquiry after having been duly notified, the Council shall enter a plea of not guilty and proceed with inquiry:

Provided that, the Council may adjoin the hearing if the

respondent's absence is duly known to the Council and is due to bona fide reasons.

(4) If the respondent or his legal representative refuses or fails to plead to the charge, the Council shall enter a plea of not guilty.

(5) If the respondent pleads guilty to the charge, the Council shall ask the respondent or his legal representative such questions as are necessary to determine whether all the elements of the charge are admitted.

(6) If the Council is satisfied that all the element of the charges are admitted, the pro forma complainant shall address the Council and indicate whether the plea of guilty is accepted.

(7) If the plea of guilty is accepted, the Chairman of the Council shall make a finding of guilty and allow the parties to address the Council in accordance with sub-regulation (5).

(8) If the respondent pleads not guilty or if a plea of not guilty is entered and if a plea of guilty is not accepted by the pro forma complainant, the Chairman shall allow the pro forma complainant to address the Council and conduct examination in chief and produce evidence in support of his case and re-examine witnesses after cross-examination by the respondent or his legal representative or complainant and thereafter close his case.

(9) The respondent or his legal representative may make a submission of no case to answer after the pro forma complainant has closed his case.

(10) The chairman shall give the pro forma complainant the opportunity to reply to the submission of no case to answer.

(11) The Council shall consider the application in camera and there after give its decision or ruling to the parties.

(12) If the submission of no case to answer is dismissed, the respondent or his legal representative may address the Council and lead evidence in support of his case, re-examine witnesses after cross-examination by the pro-forma complainant and thereafter close his case.

(13) The Council may, on application allow any of the parties to lead further evidence or to recall a witness after his discharge and the other party shall be given an opportunity to

cross-examine such witness.

(14) The Chairman and members of the Council may put questions to witness for clarity on issues arising from witness's evidence.

(15) After all the evidence has been adduced; the pro-forma complainant and the respondent or his legal representative shall address the Council and make summation on the evidence and the legal position.

(16) The pro forma complainant may reply to any matter of law raised by the respondent or his legal representative in his address and may, with leave of the Council, reply to any matter raised by the respondent or his legal representative in his address.

(17) Oral evidence shall be taken under oath or on affirmation administered by the Chairman.

(18) Evidence on affidavit is admitted by the Council: provided that the opposing party may require the deponent of such affidavit to be present for purposes of cross-examination.

(19) The record or any portion thereof of a lawfully constituted court, inquest court or disciplinary tribunal from any jurisdiction shall be accepted as prima facie evidence if it has been certified to be a true copy by that court or disciplinary tribunal.

(20) If it is practicable and appears just, the Council may, on application by either party and for the purpose of cross-examination, order the attendance of a witness whose evidence appears in a record of a court or disciplinary tribunal and which is presented as prima facie evidence.

(21) At the conclusion of the hearing, the Council shall deliberate in camera and then inform the parties of its findings within seven days. The findings of Council may include a finding of poor performance on the part of the respondent, in which case the Council shall refer the matter to the practice review and professional advancement committee to inquire into the performance of the respondent and make a determination on the appropriate management thereof.

(22) Where the respondent is found guilty of

professional misconduct-

- (a) the pro-forma complainant shall address the Council and furnish details of previous convictions of the respondent on professional misconduct;
- (b) the pro-forma complainant may address the Council on a suitable penalty and lead evidence in support of imposing such penalty;
- (c) the respondent or his legal representative may thereafter mitigate to the Council and the Council shall deliberate in camera and make verdict on the appropriate penalty to be imposed, and thereafter the Chairman shall proceed to pronounce the decision to the respondent;
- (d) where the respondent is absent on the day of pronouncement of the verdict, the Council shall direct the Registrar to communicate the decision to the respondent.

(23) The verdict made and penalty imposed by the Council shall be in force and take effect from the date delivered.

(24) Proceedings of the inquiry shall be recorded in writing or any other form of recording, and may be taken by a person appointed by the Council for that purpose and shall be kept as true records of the inquiry; provided that in deliberation held in Camera, the members present shall determine mode of taking such records.

Notification of
decision of
Council

13.-After the conclusion of an inquiry, the Registrar shall serve notice of the decision of the Council to the respondent within seven days after conclusion of an inquiry.

Review before
Council

14.-(1) At any time within fourteen days of service of notice any party aggrieved by the decision of the Council may apply in writing to the Council for review of its decision, and shall state points of law or facts that if properly considered could have lead to a contrary findings or verdict.

(2) A person intending to apply for review shall issue a written notice to that effect to the Registrar within seven days after completion of inquiry or delivery of verdict of his

intent to seek redress by way of review before the Council.

(3) Failure to comply with the requirements set under these Regulations shall warrant the Council to reject the application.

(4) A person who was a party to the inquiry before the Council, and who is aggrieved by the decision of the Council upon pronouncement of a verdict or after review by the Council may file appeal to the Minister within forty five days.

Appeals
procedure

15.-(1) The Minister may, upon receipt of the appeal, -

(a) instruct the Registrar to submit records of the proceedings of the inquiry which made the decision; and

(b) allow the appellant, complainant, respondent and the Council an opportunity to be heard by presenting himself or in writing in support of, or against the appeal, as the case may be.

(2) Notwithstanding the provisions of subregulation (1), the Minister may determine the appeal in the absence of the appellant and in any case, unless exceptional circumstances exist, the Minister shall ensure that every appeal is concluded within ninety days from the date of receipt.

(3) The decision of the Minister shall be final.

FIRST SCHEDULE

(Made under regulation 3(2)(b) and 3(3))

THE UNITED REPUBLIC OF TANZANIA



MINISTRY OF HEALTH, COMMUNITY DEVELOPMENT, GENDER, ELDERLY
AND CHILDREN

Code of Ethics and Conduct for a Chemist Professional

The Code of Ethics and Conduct provides guidelines for a chemist professional. The Code of Conduct and Ethics covers matters such as conflicts of interest, good faith, integrity, professionalism, honesty and objectivity. A chemist professional shall be required to comply with the following Code of Ethics and Conduct:

- (a) not contravene the provisions of the Act and its regulations;
- (b) avoid conflicts of interest or activities that compromise, or appear to compromise, professional independence, objectivity, or inspection integrity;
- (c) not be involved in bribe or corruption;
- (d) not to use an ID or certificate of registration, enrollment and enlisting of another chemist professional as his own;
- (e) not bet or aid the illegal chemist professionals practice;
- (f) not furnish false information or document to the Registrar;
- (g) not disclose any information to an unauthorised person;
- (h) act in good faith toward each client and other interested parties;
- (i) avoid activities that may harm the public, discredit themselves, or reduce public confidence in the profession; and

- (j) not do or omit to do such other acts or misconduct in contravention of the best practice of the chemist profession.

SECOND SCHEDULE

(Made under regulation 4(5))

THE UNITED REPUBLIC OF TANZANIA



MINISTRY OF HEALTH, COMMUNITY DEVELOPMENT, GENDER, ELDERLY
AND CHILDREN

Complaint Form

Instructions for use of Public Complaint Report Form

1. If you are dissatisfied with service or you suspect misconduct or incapacity of a chemist professional or violation of professional conduct please fill in this form.
2. Enter the information requested in each section of the complaint form. If more than one chemist professional is being reported a separate form should be used for each chemist professional being reported.
3. Anonymous complaints are accepted and will be investigated if sufficient identification information for the chemist professional is submitted. It must be able to properly identify the chemist professional in question before inquiry can proceed.
4. All complainants who identify themselves with contact information will be notified in writing as to the final disposition of the complaint. If a complaint is received anonymously the Council will not reveal the final outcome to interested callers.
5. If you have questions regarding how to fill in and submit the complaint form you may contact the Registrar or any person acting in that behalf for further details.

Particulars of Complainant

Name of the complainant.....
Physical Address.....
Name of the facility/company
Telephone No./Mobile No.....
Email address

Particulars of the Chemist professional

Full Name of the chemist professional.....
Chemist professional's Position/designation.....
Name of the Employer.....
Name of the facility/company/institution.....

Area of practice chemist professional worked at time of event/incident
Time of the incident.....
Reported to the employer.....
If yes, to who was it reported?
Dates and time reported.....
Actions taken by employer, if any, state.....
What is your relationship to this chemist professional?
Has this matter been reported to the Police?

Details of the Complaint

You may attach copies of relevant documents if available (use additional sheets if necessary):

(Give specifics including what happened, the date, place and time of occurrence)

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

List of Witnesses

List names, addresses and telephone numbers of other people who knows this possible violation,

.....
.....
.....

Declaration:

I declare that, the given information is true and correct to the best of my knowledge and understanding.

Signature..... Date.....

FOR OFFICIAL USE

Received from (name).....designation.....contacts (telephone No./Mobile No....

Dates and time received.....signature.....

Received by.....position/designation.....

Comments/advice if any.....

Chemist Professionals (Inquiry)

GN No. 580 (contd)

Actions taken.....
.....

Dates and time.....signature..... stamp

THIRD SCHEDULE

(Made under regulation 5(1)(b))

THE UNITED REPUBLIC OF TANZANIA



MINISTRY OF HEALTH, COMMUNITY DEVELOPMENT, GENDER, ELDERLY
AND CHILDREN

Address.....

Date:.....

RE: NOTICE OF PRELIMINARY EXAMINATION

On behalf of the Chairman of the Chemist Professional Council, I hereby give you notice that information and evidence have been received by the Council, from which it is alleged that between dates to....., being a registered, enrolled or enlisted Chemist Professional you committed a professional misconduct on,.....

.....
.....
.....
.....

In relation to the facts so alleged, I undertake to hold Preliminary Examination in respect thereof.

You are therefore required to answer in writing the above allegations revealed against you and attach therewith any document or evidence, which you intend to produce as defence thereto.

You are further required to avail your answers to the office of the Registrar within seven (7) days from the date of receipt of this notice.

Note that, failure to respond as herein required shall warrant the Council to proceed with the inquiry against you in your absence.

REGISTRAR

FOURTH SCHEDULE

(Made under regulation 8(3))

THE UNITED REPUBLIC OF TANZANIA



MINISTRY OF HEALTH, COMMUNITY DEVELOPMENT, GENDER, ELDERLY
AND CHILDREN

Name and Address of Respondent.....

.....

.....

Date.....

RE: NOTICE OF DATE OF HEARING

On behalf of the Council, Iserve you a notice (that information and evidence have been laid before the Council by (name/company/institution) which the complainant makes various allegations against you.

The allegations and charges indicates that on the day of you were seen/observed performing the following.....(offences/misconduct) at.....namely(place) and I am directed by the Council to give you notice that on theday ofat..... (venue and place), a meeting of the Council will be helda.m./p.m. to consider the above mentioned charge or charges against you.

You hereby requested to appear before the Council at the above named place and time. In case you fail to appear in person or by your legal representative the Council may proceed to determine the matter in your absence. You may wish to bring your witnesses and documents you intend to rely upon in support of your case.

.....

REGISTRAR

Chemist Professionals (Inquiry)

GN NO. 580 (contd)

Signature.....

Date.....

Stamp.....

Copy to be served:

.....

.....

Dodoma,

....., 2019

UMMY A. MWALIMU

*Minister for Health, Community Development,
Gender, Elderly and Children*