

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 119 OF 2008

The National Council for Construction Act, 2003
(Act No. 13 of 2003)

**The National Council for Construction (Contractors)
(Code of Conduct) Regulations, 2008**

IN EXERCISE of the powers contained in section *twenty-seven* of the National Council for Construction Act, 2003, and on the recommendation of the Council, the following Regulations are hereby made:

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| 1. These Regulations may be cited as the National Council for Construction (Contractors) (Codes of Conduct) Regulations, 2008. | Title |
| 2. In these Regulations, unless the context otherwise requires—
“ Act ” means the National Council for Construction Act, 2003;
“ contractor ” has the meaning assigned to it in the Act; and
“ council ” has the meaning assigned to it in the Act. | Interpretation
Act No. 13
of 2003 |
| 3. Every contractor shall be bound by the Code of Conduct set out in the Schedule to these Regulations. | Application
of Code |

SCHEDULE
(*Regulation 3*)

CODE OF CONDUCT FOR CONTRACTORS

PART 1

PROFESSIONAL CONDUCT

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| 1. (1) A contractor shall not undertake, carry out or complete any construction works awarded in terms of competitive tender, quotation or to otherwise unless the contractor is registered under the Act. | Prohibition
of
undertaking
works for
unregistered
contractor |
| (2) A registered contractor shall not—
(a) undertake construction works for, or be sub-contracted by, an unregistered contractor; | |

(b) sub-contract any of the contractor's work to an unregistered contractor; or

(c) award to an unregistered contractor any construction works or portion of the works for any public sector contract awarded under a competitive tender, quotation or otherwise.

(3) A person who contravenes this regulation is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Contractor to undertake works in grade for which registered

2. (1) A contractor shall not undertake any construction works in a category or grade in respect of which that constructor is not registered.

(2) A person who contravenes this regulation is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Contractual obligations

3. (1) A contractor shall carry out the construction works in accordance with the Act and the provisions and specifications of the contract under which the contractor is engaged.

(2) A contractor shall disclose to the client at the earliest opportunity any material fact that may effect the undertaking, performance or timely completion of any works.

(3) If the circumstances requiring disclosure are not known to the contractor prior to the acceptance of a contract, disclosure shall be made when the circumstances become known to the contractor.

(4) The burden of disclosure rests on the contractor and the duty to disclose is a continuing duty which does not cease until the construction works are concluded.

(5) A contractor shall avoid entering into any financial, social business or professional relationship, or acquiring any financial or personal interest, which may adversely affect the performance of a contractor or construction works.

(6) A contractor shall not offer any gift or hospitality for any purpose related to a contract.

Contractors in public service

4. (1) A person employed in the public service shall not tender for public contracts in a category connected with that person's employment in the public service.

(2) A person who contravenes this regulation is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

5. (1) A contractor shall not discriminate against any employee, any member of the public or client in any manner.

Treatment of employees

(2) A contractor shall not use any abusive language or derogatory remarks to an employee.

(3) A contractor shall comply with the employment and labour law of Zambia.

6. A contractor shall not establish a relationship with any person or party to the contract which may give rise to a conflict of interest.

Conflict of interest

7. A contractor shall only accept an appointment or contract if the contractor possesses the qualifications required and has suitable experience and ability for the works.

Acceptance of contract

8. (1) A contractor shall plan a work schedule so that the construction works are undertaken efficiently and effectively in a timely and professional manner.

Avoidance of delay

(2) A contractor shall avoid delays and anything that might affect the quality of the works.

9. (1) A contractor shall not expose the contractor's employees to an unsafe working environment.

Health and environmental safety

(2) A contractor shall provide appropriate safety clothing to the contractor's employees.

(3) The safety clothing referred to under sub-regulations (2) includes—

- (a) overalls;
- (b) safety boots or gum boots;
- (c) safety goggles or masks;
- (d) gloves
- (e) helmets or similar protective hats; and
- (f) safety belts.

(4) A contractor shall provide a first aid kit on site.

(5) A contractor shall station a competent first aider on site on a construction site.

	(6) A contractor shall provide hoarding to all building construction sites.
	(7) A contractor shall provide adequate sanitation facilities and safe drinking waste for the employees.
Cap. 204	(8) A contractor shall ensure that the construction operations are compliant with the Environmental Protection and Pollution Control Act.
	(9) A contractor shall observe and implement all the requirements in the malaria and HIV/AIDS clause in the contract document.
	(10) A contractor shall observe and implement malaria prevention and control methods on a camping site.
	(11) A person who contravenes this regulation is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.
Keeping of records	10. A contractor shall keep and maintain relevant updated records and documentation on site.
Assistance to officers	11. A contractor shall provide such information and assistance to an officer or member of staff of the Council as the Council may require for purposes of the Act.
Foreign contractor	12. (1) Except as otherwise provided by the Act, a foreign contractor shall not undertake any construction works unless the contractor is registered with the Council. (2) A person who contravenes this regulation is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.
Surrender of certificate after cancellation	13. (1) A contractor whose certificate of registration is cancelled by the council under <i>section ten</i> of the Act shall surrender the certificate of registration to the Council within fourteen days of the cancellation. (2) A person who contravenes this regulation is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.
Responsibilities of profession	14. (1) A contractor shall uphold the dignity and integrity of the office and endeavour to provide effective service to the parties. (2) A contractor shall keep current with principles, practices and developments that are relevant in the construction industry.

(3) A contractor may publicise their expertise but shall not actively solicit appointment as a contractor.

(4) An experienced contractor shall cooperate in the training of new contractors.

(5) A contractor shall not make false or misleading representations in advertising.

(6) For the avoidance of doubt, a contractor shall, prior to publishing an advertisement obtain written approval of the intended advertisement from the Council

PART II

PROFESSIONAL MISCONDUCT

15. (1) A contractor shall be guilty of professional misconduct if, in the course of practice, the contractor—

Professional
misconduct

- (a) contravenes the provisions of the Act or these Regulations;
- (b) unlawfully discloses or uses to the contractor's own advantage any information acquired in the course of professional work on behalf of a client.
- (c) engages in conduct that is dishonest, fraudulent or deceitful;
- (d) commits a criminal offence;
- (e) engages in conduct that is prejudicial to the performance of contractual obligations;
- (f) breaches the principles of this Code;
- (g) encourages another person to breach or disregard the principles of this Code;
- (h) attempts to influence unfairly, whether directly or indirectly, the award of a contract;
- (i) obtains or attempts to obtain an appointment as a contractor by offering or paying monetary or other consideration or inducement to any person or by any other improper means;
- (j) scouts for, or in any way solicits for, appointment as a contractor;
- (k) attempts to supplant or discredit another contractor with a view to unfairly influencing an appointment; or
- (l) conducts oneself dishonourably in connection with the work performed by that person as contractor.

Reporting
misconduct

16. (1) Any person who has reasonable grounds to believe that a contractor has violated this Code may make a written complaint with details of the alleged misconduct to the Council.

(2) A report of the alleged misconduct shall not be construed as a violation of this Code unless provided otherwise.

Cancellation
of
registration

17. The Council shall cancel the registration of a contractor who is found guilty of professional misconduct.

M. MULONGOTI,
Minister of Works and Supply

LUSAKA

9th December, 2008

[MWS/72/1/10C]