

SOUTH AFRICAN QUALIFICATION AND CERTIFICATIONS COMMITTEE FOR GAS (SAQCC GAS)

DISCIPLINARY PROCEDURE FOR GAS PRACTITIONERS

1. SCOPE

This SAQCC Gas Disciplinary Procedure applies to all Registered Gas Practitioners. The SAQCC is authorised by the Department of Employment and Labour to execute disciplinary policy and procedure for noncompliance with the pressure equipment regulations.

2. POLICY STATEMENT

2.1 The Disciplinary Procedure is essential for the efficient and effective management of the SAQCC Gas's registration process. The fair treatment of all Gas Practitioners is the responsibility of the SAQCC Gas Management.

2.2 This Disciplinary Procedure shall be made known to all Gas Practitioners and properly applied by Management.

2.3 Note any reference to male gender shall not exclude female gender.

2.4 Any reference to "days" will exclude Saturdays, Sundays or public holidays as gazetted by the government of the Republic of South Africa from time to time.

3. PURPOSE

To set out the process for handling of Gas Practitioner misconduct in breach of the SAQCC Gas Code of Conduct.

4. OBJECTIVE

4.1 The primary objective of the Disciplinary Procedure is to initiate corrective action where work performance is unsatisfactory, or the behavior of a Gas Practitioner is unacceptable. The SAQCC Gas Code of Conduct is a non-exhaustive code addressing possible offences and suggested corresponding penalties.

4.2 To ensure that all Gas Practitioners are fairly treated by the SAQCC Gas and that, should a dispute arise the necessary documentary evidence is prepared and is available to justify any necessary action.

4.3 The procedure should respect all the Gas Practitioner's rights in such matters:

4.3.1 that he has had the opportunity to state his case and to enlist any support he might wish in doing so; and

4.3.2 that all the circumstances have been fully and objectively considered before a decision is reached.

4.4 Disciplinary action must be fair, prompt, firm and consistent.

5. APPLICATION OF THE DISCIPLINARY PROCEDURE

The items of this procedure shall apply to all Gas Practitioners irrespective of race, sex, or status.

Gas Practitioners who contravene the SAQCC Gas's Code of Conduct will be dealt with according to the Disciplinary Procedure.

6. DEFINITIONS OF ROLES

6.1 Disciplinary Committee:

The Disciplinary Committee will be comprised of four Board Members who represent the four Gas Associations. The Committee will meet at least once a year to review policy, historical disciplinary actions, and the performance of the Disciplinary process.

Ad hoc Meetings will be called as/when required by the Chairperson of the Disciplinary Committee.

6.2 The roles and functions of persons who participate in disciplinary enquiries are as follows:

6.2.1 Chairperson of the Disciplinary Hearing:

This person is appointed by the SAQCC Gas Board to conduct proceedings and must be impartial, knowledgeable and conversant with the Disciplinary Codes of Conduct and Disciplinary Procedure. In so far as the Chairperson deems necessary, the Chairperson may be assisted by at least one knowledgeable representative in the defendant's industry to assist the Chairperson on the technical / practical application of each matter at hand.

6.2.2 Initiator

This will be the respective Gas Association's Representative/s.

6.2.3 Defendant:

The defendant is the registered Gas Practitioner who is alleged to have contravened the SAQCC Gas's Code of Conduct.

6.2.4 Witnesses:

Person/s who have witnessed the contravention or who can lead evidence relevant to the case.

6.2.5 Gas Practitioner Representative

The defendant may be represented by another representative or gas practitioner but may not be represented by legal counsel.

6.2.6 Department of Employment and Labour (DEL)

The DEL will ordinarily not participate in the Disciplinary hearing.

7. PROCEDURE

7.1 The initiator will decide whether a contravention has taken place and will investigate the circumstances prior to initiating action.

7.2 The Gas Practitioner's responsible Association will investigate the alleged transgressions. Based upon the findings of the investigation into any breach of the Code of Conduct or grounds for disciplinary action, the Association is empowered on behalf of the SAQCC Gas to issue Verbal and Written warnings and must copy the SAQCC accordingly. In the case of the Gas Practitioner being an employee of a Company the Employer will also be informed in writing. All written warnings shall align substantially in content to that set out in Annexure A.

7.3 Should the alleged transgressions be of a serious and or ongoing nature; the Initiator shall inform the SAQCC Disciplinary Committee who will then convene a formal Disciplinary Hearing.

- 7.4 Save for clause 7.2, in the case of an offence against the Code of Conduct the Gas Practitioner will have disciplinary action taken against him. The Code of Conduct will be used as a guideline for laying charges and imposing sanctions, but the list is not exhaustive, and the Chairperson will use reasonable discretion when imposing an appropriate sanction.
- 7.5 Copies of all written warnings will be signed by all parties concerned and a copy supplied to the SAQCC Disciplinary Committee. Should the Gas Practitioner refuse to sign the warning two witnesses may testify to this effect and sign the warning themselves
- 7.6 Should the alleged offence be of a serious nature where guilt could lead to loss of registration then a formal disciplinary hearing shall be constituted.

8. **NOTICE OF THE HEARING**

- 8.1 For hearings to be procedurally fair, the Defendant:
- 8.1.1 must be informed of the allegations (charges) against him.
 - 8.1.2 the language of the allegations must be clear and understandable.
 - 8.1.3 must be given seven days' notice of the Hearing.
 - 8.1.4 must be informed of his rights in writing, usually on the 'Notice to appear at a disciplinary hearing'.
- 8.2 For this reason, the Defendant must be issued with a "Notice of Disciplinary Hearing" corresponding substantially in content to that prescribed in Annexure B to this Disciplinary Procedure.
- 8.3 The Defendant may object against the 'Impartiality' of the Chairperson and specify the grounds of such objection prior to the commencement of proceedings, and the Chairperson will recuse himself from the proceedings if reasonable grounds for such a recusal exist.
- 8.4 If the Defendant fails to attend a disciplinary inquiry after being notified to do so, the inquiry may be conducted in his absence.. Timeous requests for a postponement which establish a reasonable and pressing basis for absence will be considered.
- 8.5 In circumstances where a postponement has not been granted an additional charge for failing to attend a disciplinary without a legitimate reason may be included with the original charges.
- 8.6 For disciplinary proceedings which proceed in the absence of the defendant, the Chairperson shall satisfy himself that the defendant has duly received notice of the hearing and has failed and or refused to attend the hearing without good cause and or has failed to seek a postponement timeously.

9 **FRAMING THE CHARGES**

When framing charges, the following should be considered:

- 9.1 Avoid using language that is legalistic and confusing.
- 9.2 Only the charge(s) brought against the Defendant may be used in deciding the finding(verdict)
- 9.3 If more than one charge brought against the Defendant at the same time arising out of an incident, one should concentrate on the more serious transgression(s) during the enquiry and list them first.
- 9.4 Each charge should clearly and concisely set out the offence by the defendant followed by a summary of the alleged circumstances giving rise to the complaint. The charge should set out the specific offence listed in the SAQCC Code of Conduct or specify the transgression with reference to a specific SAQCC Gas rule or regulation.

10. **DISCIPLINARY ACTION AFTER INQUIRY**

If the Defendant is to have his/her Registration terminated, he/she will be given the reasons for Termination of Registration after the hearing and a summarised written outcome must follow within a reasonable time. The minute's remains the sole property of the Chairperson for his or her own reference, and the Chairperson is not obliged to distribute the minutes to any party.

11. **APPEAL**

- 11.1 A Defendant has the right of appeal against a disciplinary action, finding or outcome. This appeal must be lodged with the SAQCC Gas Disciplinary Committee within 30 days of receipt of the outcome and must correspond substantially in content to that provided in annexure D.
- 11.2 The SAQCC Gas Disciplinary Appeal Committee, will be presented by:
- 11.2.1 Chairperson nominated by the Disciplinary Committee
 - 11.2.2 SAQCC Gas Director
 - 11.2.3 SAQCC Gas Administrator
 - 11.2.3 Representative from the Department of Employment and Labour
- 11.3 For purposes of impartiality the SAQCC Gas Disciplinary Appeal Committee may in its sole discretion reconsider the composition of the Appeal committee where deemed reasonably necessary.
- 11.4 Appeals will ordinarily be considered and a determination made by the SAQCC Gas Disciplinary Appeal Committee on written submission by the parties however the SAQCC Gas Disciplinary Appeal Committee may in its discretion call for oral submissions.
- 11.5 The SAQCC Gas Disciplinary Committee will notify the parties in writing of its findings.
- 11.6 Should the defendant, on receipt of the appeal finding(s) received from SAQCC Gas Disciplinary Appeal Committee, not be satisfied, or disagrees to the findings and or outcome, the defendant may appeal to the Department of Employment and Labour within 30 days of receipt of the outcome.
- 11.7 The Department of Employment and Labour will assess the appeal and make its own findings known to the defendant in writing.

South African Qualification Certification Committee for Gas (SAQCC Gas)

DISCIPLINARY FINAL WARNING (INFORMAL PROCEEDINGS)

Date.....

To.....

Registered Address.....

.....

Gas Practitioners Registration Number.....

In terms of the SAQCC Gas Code of Conduct and Procedure, you are hereby advised that you have been found to be in breach of the Code of Conduct.

ALLEGED OFFENCE/S :(Detail exact nature of alleged misconduct and include time, date and place):

Final Witten Warning Issued by:**Position**.....

Date.....

Gas Practitioner's Signature of receipt.....

Date received.....

Note: If the Gas Practitioner refuses to sign, enter below the names (print) of those witnesses present when handed to him/her

Witness1:

Witness2:

South African Qualification Certification Committee – Gas (SAQCC Gas)

GAS PRACTITIONER NOTICE TO ATTEND DISCIPLINARY HEARING (FORMAL PROCEEDINGS)

Date:.....

To:.....

Registered Address:.....

.....

Gas Practitioners Registration Number.....

TO BE HELD ON:.....AT.....

VENUE:.....

1. In terms of the SAQCC Gas Code of Conduct and Procedure, you are hereby advised that a DISCIPLINARY HEARING will be held on the above date, at the above venue at which you must present yourself.
2. ALLEGED OFFENCE/S: (Detail exact nature of alleged misconduct and include time, date and place):

SIGNED:.....POSITION.....

PRINT NAME:.....

I,.....HEREBY ACKNOWLEDGE RECEIPT OF THIS NOTIFICATION TO ATTEND A DISCIPLINARY HEARING AS WELL AS THE ANNEXURE HERETO SETTING OUT MY RIGHTS AS WELL AS THE PROCEDURE TO BE FOLLOWED.

.....
SIGNATURE DATE

1. PRACTITIONER'S RIGHTS AND EXPLANATION OF THE PROCEDURE

- 1.1 You are required to inform the SAQCC Gas in writing of the names of your representatives and your witness(es) at least three days before the hearing commences.
- 1.2 Should you not be able to attend a hearing you are required to direct your request for a postponement, setting out the merits of such request, together with any supporting documents to the SAQCC Gas in writing, at least five days prior to the hearing. In so far as the SAQCC deems the request for the postponement to be made with merit, it will notify you of an alternative date for the hearing.
- 1.3 Should you fail to attend a hearing convened under this Disciplinary Procedure, in the absence of the SAQCC agreeing to a postponement, the hearing may be held in your absence.
- 1.4 You may be represented by another representative or gas practitioner, but you may not be represented by legal counsel. See point 1.1 above.
- 1.5 You have the right to submit any written statements you wish.
- 1.6 You have the right to call any witness you may require. It is your responsibility to arrange for your witness to be available at the time of the hearing. See point 1.1 above.
- 1.7 You are entitled to have an interpreter if you do not understand English. If you require an interpreter, you must make the request to the SAQCC Gas, in writing, at least five days before the hearing commences and advise what language. SAQCC Gas will in so far as it may be reasonably possible attempt to accommodate the request.
- 1.8 You are entitled to adequate time to prepare for the hearing.
- 1.9 You are entitled to the opportunity to confer with your representative at reasonable times to prepare for the disciplinary hearing. You may request to confer with your representative during the hearing provided such request is made for a good reason.
- 1.10 You are entitled to personally, or through your representative, question the Initiator and any witnesses that he/she may call.
- 1.11 You are entitled to provide evidence and to argue on the question of whether the misconduct occurred.
- 1.12 You are entitled to provide evidence and to argue in mitigation before disciplinary action is taken against you.
- 1.13 If disciplinary action is taken against you and you are dissatisfied with the action, findings(s) and or outcome, you may appeal to the SAQCC Gas Disciplinary Committee.
- 1.14 Note carefully the appeal contemplated in 1.13 of this Disciplinary Procedure must be made within 30 calendar days after you have been advised of the disciplinary action against you..
- 1.15 Note carefully that an appeal must be lodged as per the SAQCC Gas Disciplinary Procedure, should you decide to lodge an appeal.

2. **Please carefully note the following outline of the procedure to be followed:**

- 2.1 You will be asked to plead to the allegations against you.
- 2.2 Evidence of the Initiator and his/her witnesses will be heard one by one.
- 2.3 You and /or your representative will be allowed to cross-examine each of them in turn.
- 2.4 After all evidence against you have been heard you will have the opportunity to respond to the allegations against you.
- 2.5 Cross –examination by the Initiator will be allowed.
- 2.6 You may call your witness one by one. These witnesses may be cross – examined in turn by the Initiator.
- 2.7 The Chairperson may ask question(s) for clarification.

- 2.8 The Chairperson will adjourn the hearing to consider evidence to determine whether you are guilty or not guilty of the misconduct complained of
- 2.9 You will be advised of the decision whether guilty or not guilty.
- 2.10 If found guilty, you will be allowed to put forward reason for mitigation of disciplinary action.
- 2.11 The Chairperson will consider appropriate action after hearing mitigation and advise you in writing accordingly.

I,....., HEREBY ACKNOWLEDGE THAT I HAVE RECEIVED, READ AND UNDERSTOOD THE CONTENTS OF THE ANNEXURE (CONSISTING OF 2 PAGES) AND CONFIRM THAT I HAVE BEEN ADVISED OF MY RIGHTS AS SET OUT HEREIN.

.....
SIGNATURE

Declaration by Gas Practitioner

I declare that all the information supplied in this document is true and accurate.

Signature of Gas Practitioner

Date: _____

Place: _____