



SOUTH AFRICAN COUNCIL
FOR THE NON-PROLIFERATION OF
WEAPONS OF MASS DESTRUCTION

Code of Conduct for Persons Involved in Controlled Non-Proliferation Activities

South African Council for the Non-proliferation of Weapons of Mass Destruction

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CODE OF CONDUCT FOR PERSONS INVOLVED IN CONTROLLED NON- PROLIFERATION ACTIVITIES

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1. PURPOSE

The purpose of this Code is to establish guidelines for industry members involved in controlled activities in terms of the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) (Non-Proliferation Act). The code also provides a guideline for industry to follow in order to adhere to the requirements of the Act.

2. INTRODUCTION

In terms of section 7 (1) of the Non-Proliferation Act “the Council may issue codes of conduct stating the principle of non-proliferation and describing procedures and methods to be followed during the execution of certain activities related to non-proliferation”.

Therefore, the codes of conduct aim to promote effective compliance with the legislation in respect of the non-proliferation of weapons of mass destruction.

3. CODE OF CONDUCT

3.1. REGISTRATION WITH THE NON-PROLIFERATION COUNCIL

Any person* who is in control of any activity with regard to controlled goods or who has in his possession or custody or under his control controlled goods, must:

- (a) register with the Council in the prescribed manner; and
- (b) if the Council so requests, make a declaration furnishing all information requested by the Council.

3.2. PERMIT APPLICATION

Any person* who wants to trade in controlled goods, equipment and technology stated in the secondary legislation (Government Notices) that supports the Act must apply for the following permits:

- a) an export permit;
- b) an import permit;
- c) a transit permit;
- d) manufacturing and services permit; and
- e) declare to the Council, in accordance with the provisions of a manufacturing and services permit.

3.3. COMPLYING WITH PERMIT CONDITIONS

Any person* who has in his possession a permit duly issued by the Council must comply with the following conditions pertaining to the permit:

- a) Not exceeding the approved quantities of controlled goods provided for by the permit;

- b) Importing, exporting, re-exporting or transiting only the controlled goods as stated in the approved permit;
- c) Complying with the end-use requirements and the verification of such end-use requirements of controlled goods;
- d) Exporting controlled goods from and importing controlled goods with only the states or territories as stated in the permit;
- e) Re-exporting controlled goods originating in the Republic to only a state destined for export;
- f) Utilising the permit for only the period for which the permit is valid; and
- g) Importing, exporting, re-exporting or transiting controlled goods through the ports, airports or border posts as stated in the approved permit.

3.4. RETURN OF DULY ISSUED PERMIT

Any person* who has in his possession a permit duly issued by the Council must comply with the following requirements:

- a) To return any permit that has been revoked or due to expiry of the period of validity of the permit to the Council.

3.5. SUBMISSION OF DECLARATIONS

Any person*, including producers, processors, consumers, importers and exporters of scheduled chemicals as well as producers of discrete organic chemicals; must submit annual declarations on such activities.

Any person* who has been issued with a Manufacturing and Services Permit must submit declarations as per the conditions of the permit.

3.6. COOPERATION WITH INSPECTORS

Any person* involved in controlled activities must cooperate with an inspector appointed by the Chairperson of the Council:

- a) allowing the inspector access to any activity, operation or process executed or carried on, in or upon the premises;
- b) producing to the inspector any book, document, data or thing which is in their possession or custody or control or any other person on their behalf;
- c) providing an explanation of any record or entry therein; and
- d) appearing before the inspector at a date, time and place fixed by the inspector.

Any person* including producers, processors, consumers, importers and exporters of scheduled chemicals as well as producers of discrete organic chemicals; must cooperate with the Organisation for the Prohibition of Chemical Weapons (OPCW) inspectors for the country to meet its obligations in terms of the Chemical Weapons Convention (CWC).

3.7. COOPERATION WITH THE BOARD OF INQUIRY

Any person* involved in controlled activities must cooperate with a board of inquiry established by the Minister of Trade and Industry in terms of the Act by:

- a) providing material information concerning the subject of the inquiry if able; and
- b) appearing before the board of inquiry on a date and at a time and place specified in the summons if they have in their possession or custody or control of any book, document, data or thing which has any bearing on the subject of the inquiry.

3.8. COOPERATION WITH THE COUNCIL

Any person* involved in controlled activities must cooperate with the Council or any person authorised by the Council by:

- a) Furnishing the Council within a specified period, or at specified intervals, with any information at his disposal, accompanied by the relevant data and other documents, as indicated in the direction, relating to the design, development, manufacture, maintenance, marketing, import, export, re-export, transit, supply or storage of the said controlled goods.

Any person* who is required to obtain a permit from the Council or is required to be registered must at the written request of the Council, within the period stated in the request:

- b) Transmit to the Council such samples of the goods as may be specified in the request, for examination, testing or analysis; or
- c) Furnish to the Council such information as may be so specified with regard to controlled goods or the design, development and manufacture thereof.

**Person in this context refers to a legal person, which may be a private (i.e. business entity or non-governmental organization) or public (i.e., government) organisation.*

4. RESPONSIBILITIES BY REGISTERED PERSONS

In addition to the provisions as stated in the Code of Conduct, all registered persons must note that in addition to the compliance with the Code of Conduct, the onus is on them to ensure that:

- a) Relevant staff members are familiarised with the contents of the Code of Conduct.
- b) Relevant staff members are trained on the relevant domestic non-proliferation and/or arms control regulations that are applicable to their business.
- c) All violations of the Non-Proliferation Act are reported to the Council immediately together with mitigation measures in place to prevent re-occurrence.
- d) All appointed local subcontractors, brokers, freight forwarders, clearing agents, buyers and/or end-users are in possession of a registration certificate and or permit issued by the Council before engaging in business with them.
- e) Foreign suppliers are in possession of the requisite permit in compliance with the relevant non-proliferation obligations prior to importing controlled goods.
- f) They do not contract or trade with entities listed on the United Nations Security Council (UNSC) sanctions.

- g) All changes in terms of directors and/or shareholders are promptly brought to the attention of the Council.
- h) A signed copy of the Code of Conduct is submitted to the Council within the stipulated deadline.

5. ACKNOWLEDGEMENT OF ACCEPTANCE OF CODE OF CONDUCT

I have read the Code of Conduct for Persons involved in Non-Proliferation activities issued by the South African Council for the Non-Proliferation of Weapons of Mass Destruction and agree to abide by all conditions of the Code of Conduct and fulfil all legal obligations in terms of the relevant legislation.

Name of Representative

Signature of Representative

Date