

**ENGINEERING PROFESSION ACT
(CAP. 321)**

**Engineering Profession (Erasure of Names Procedure)
Regulations, 2000**

IN EXERCISE of the powers conferred by section 21 of the Engineering Profession Act, the Minister for the Environment, after consulting the Engineering Board, has made the following regulations:-

Citation

1. The title of these regulations is the Engineering Board (Erasure of Names Procedure) Regulations, 2000.

Interpretation.

2. In these regulations, unless the context otherwise requires -

“Act” means the Engineering Profession Act;

“Board” means the Engineering Board established by section 6 of the Act;

“Chairman” means the Chairman of the Board, or any *ad hoc* member so appointed for the meeting;

“charge” means a charge or complaint specified in a notice of inquiry;

“Code of Ethics” means the code of ethics mentioned in section 18 of the Act;

“notice of inquiry” has the meaning given to it by regulation 6 of these regulations;

“partnership of engineers” means a civil partnership as described in section 8 of the Act;

“Register” means the records held by the Secretary of the Board, enlisting all warrant and special licence holders;

“Secretary” means the Secretary of the Board, as appointed from time to time by the Minister responsible under the Act;

“warrant holder” means the person holding a warrant or a special licence, under the Act; and a reference to a warrant holder in these regulations shall also include a partnership of engineers.

3. No direction shall be given under section 7 of the Act except in consequence of an inquiry held in accordance with the provisions of these regulations into any charge formulated in a notice of inquiry and served in accordance with the provisions of these regulations on the person against whom any such charge is made.

Procedure leading to holding of an inquiry.

4. (1) Where -

Making of a complaint.

(a) a complaint in writing that a warrant holder has been convicted by any court in these Islands of any crime punishable by imprisonment for any term exceeding one year or of any of the crimes as are mentioned in the provisions of sections 12 and 14 of the Act, is sent to the Board by any body or person, or information in writing that a warrant holder has been so convicted is sent to the Board by a person acting in a public capacity, or

(b) a complaint in writing of the conduct of a warrant holder has been sent to the Board by any body or person, or information in writing as to the unprofessional conduct of a warrant holder or claiming a breach of the Code of Ethics has been sent to the Board by a person acting in a public capacity, or

(c) a complaint in writing that a warrant holder is unfit to continue to practice his profession on grounds of mental or physical infirmity is sent to the Board by any body or person, or information in writing as to the unfitness of a warrant holder to continue to practise his profession on the grounds aforesaid is sent to the Board by a person acting in a public capacity,

the Secretary of the Board shall submit the complaint to the Chairman of the Board.

(2) In so far as the complaint relates to the conduct or unfitness on grounds of infirmity, the Board shall not proceed further unless and until such complaint has been confirmed by means of a declaration on oath stating -

(a) the address and description of the declarant, and

(b) if any fact declared is not within the personal knowledge of such declarant, the source of the declarant's information and the grounds for the declarant's belief in the truth of the fact.

(3) Subject to the provisions of the last preceding paragraph, the Chairman shall direct the Secretary to notify the warrant holder of the receipt of the complaint or information, stating the substance thereof and sending to the warrant holder a copy, if any, of the declaration on oath furnished under the last preceding paragraph, and to invite the warrant holder to submit to the Board, within such date as the Chairman shall determine, any explanation which the warrant holder may have to offer, in such manner that any such explanation shall be in writing and shall be lodged with the Secretary within such time as may be fixed by the Chairman:

Provided that in so far as a complaint or information relates to the alleged conduct of a warrant holder, if it appears to the Chairman that such complaint may be frivolous or vexatious, he shall direct the Secretary to refer such complaint or information in any case to the Board which shall either decide that such complaint or information is frivolous or vexatious and need not be proceeded with any further, or it shall decide to proceed further and direct the Secretary to notify the warrant holder in accordance with the provisions of this paragraph.

(4) Subject to the preceding provisions of this regulation, the Chairman shall direct the Secretary to refer for inquiry a complaint or information to the Board, together with any explanation then furnished by the warrant holder, and any declaration on oath furnished under paragraph (2) of this regulation.

(5) In this regulation the expression "person acting in a public capacity" means an officer of a government department or public authority acting in his capacity as a public officer, or any person holding a judicial office or officer of the court.

Chairman to appoint
date and time.

5. The Chairman shall appoint a day and time for the holding of an inquiry under section 7 of the Act and under these regulations.

Issuing of a
notice of inquiry.

6. (1) As soon as may be after a complaint or information has been referred to the Board under the preceding provisions, and unless the Board is fully satisfied with the written explanation of the warrant

holder, the Secretary shall serve a notice of inquiry signed by the Chairman on the warrant holder which shall -

(a) specify in the form of a charge or charges or complaint, the matters into which the inquiry is to be held; and

(b) state the day, time and place at which the inquiry is to be held.

(2) The inquiry shall not be fixed for any day earlier than ten days after the date of the notice of inquiry.

(3) A notice of inquiry shall be in the form set out in Form A contained in the Schedule to these regulations.

(4) There shall be sent with any notice of inquiry a reference to these regulations.

(5) A copy of the notice of inquiry shall also be served on the complainant or the informer.

7. (1) Where before the hearing of an inquiry it appears to the Chairman, or at any stage of the inquiry it appears to the Board, that a notice of inquiry is defective, the Chairman or the Board, as the case may be, shall give directions for the amendment of the notice as may be necessary, unless having regard to the merits of the case, the required amendments would be prejudicial to the warrant holder under inquiry.

Defective notice of inquiry.

(2) Where, in the opinion of the Board, it appears to be expedient that the inquiry should be postponed or adjourned, the Chairman shall give such directions in that regard as appear to be necessary.

8. Proceedings before the Board shall be held in public; the Board may, however, if it considers it expedient, order that the proceedings be held in private.

Proceedings to be held in public.

9. (1) The Chairman or any member of the Board or the Secretary shall abstain, or may be challenged, from taking part in any inquiry in any circumstances in which a judge would abstain or may be challenged in accordance with the provisions of section 734 of the Code of Organization and Civil Procedure.

Challenge or abstention.

Cap. 12.

(2) Any such challenge shall be made after the reading out by the Secretary of the charge or charges or complaint to the warrant holder in terms of regulation 11 of these regulations.

(3) The Board shall decide any such challenge before proceeding further in the hearing of the charge or charges or complaint. The decision of the Board shall be final.

Legal or
professional
assistance.

10. (1) Any party to the proceedings before the Board may be assisted by an advocate or legal procurator. The warrant holder may also be assisted by a member of his profession whose name appears in the list of warrant holders as published in terms of subsection (3) of section 7 of the Act.

(2) The Chairman shall bring the provisions of this regulation to the notice of any party to the proceedings appearing before the Board without any such assistance.

Commencement
of proceedings.

11. The inquiry proceedings shall commence with the Secretary reading out the charge or the charges or the complaint. Thereupon the Chairman shall put the question to the warrant holder whether he admits or denies the charge or charges or complaint.

Preliminary
proceedings.

12. (1) If the warrant holder admits the charge or the charges or the complaint, the Board may in its discretion dispense with the production of witnesses and proceed to give its decision on that same day or any other day appointed for the purpose.

(2) If the warrant holder denies the charge or charges or the complaint, the Board shall proceed with the inquiry.

(3) If the warrant holder fails to attend without just cause, and the Board is satisfied that a notice of inquiry was sent as required by these regulations, the Board may proceed with the inquiry even in the absence of the warrant holder.

Conduct of
inquiry.

13. The inquiry proceedings shall be as follows:-

(a) witnesses in support of the charge, charges or complaint shall be produced and examined by the party producing them or, in their absence, by the Board, and cross-examined by the warrant holder under inquiry or by the person assisting him; thereafter any member of the Board may put any questions to such witnesses as they may deem necessary;

(b) witnesses in defence shall then be heard, provided that should the warrant holder wish to give evidence, he may only do so before that of any witness to be produced by him; witnesses shall be examined by the warrant holder or by the person assisting him and may be cross-examined by any other party to the

proceedings, and thereafter may be examined by any member of the Board;

(c) when the hearing of evidence has been concluded, the warrant holder shall personally or through the person by whom he is assisted, address the Board and make his defence;

(d) the Board shall then give its decision on that day or any other day appointed for the purpose: provided that the Board shall not be debarred at any stage of the proceedings until the decision is given from rehearing any witness or requesting the production of any document.

14. (1) In any case where the Board is satisfied that the charge or charges or complaint have not been proved, the Board shall decide accordingly and it shall record its finding that such charge or charges or complaint have not been proved, and that the warrant holder is not guilty in respect of such charge, charges or complaint.

Decision of the Board.

(2) In any other case to which the provisions of paragraph (1) of this regulation do not apply in full, or do not apply at all, where the Board is satisfied that the charge or charges or complaint, or part thereof, have been proved, the Board shall decide accordingly and it shall record its finding that such charge or charges or complaint, or part thereof, have been proved, and that the warrant holder is guilty in respect of such charge, charges or complaint.

(3) Where a decision is made in terms of paragraph (2) of this regulation, the Chairman shall, within ten days, communicate to the Minister, the findings and recommendations of the Board as relating to the warrant holder, in terms of paragraphs (c) and (d) of subsection (1) of section 7 and of sections 5, 12 and 14 of the Act.

15. (1) The decision of the Board shall be given in writing and read out in public and it shall be signed by the Secretary and countersigned by the Chairman.

Matters relating to the decision.

(2) The original document of the decision together with a complete record of the inquiry proceedings shall be kept with the Secretary.

(3) The Secretary shall without delay serve on the warrant holder a copy of the decision of the Board.

B 1916

Notice to give
evidence.

16. (1) Notice to any person to appear before the Board to give evidence and, or, to produce documents, shall be in the form set out in Form B contained in the Schedule hereto.

(2) Every such notice as is referred to in these regulations shall be signed by the Secretary and counter-signed by the Chairman, and shall be served in accordance with the provisions of these regulations and as provided in the Act.

Keeping of
good order.

17. It shall be within the authority of the Board during the proceedings to maintain good order and to regulate any discussion.

Secrecy to be
maintained by
the Board.

18. The members of the Board and the Secretary shall not divulge anything discussed by the Board in the course of an inquiry.

Board to regulate
own procedure.

19. Save as otherwise expressly provided, the Board shall regulate its own procedure.

SCHEDULE

Form A

Regulation 6 (3)

ENGINEERING BOARD

NOTICE OF INQUIRY

(Name of warrant holder)

You are hereby being given notice that the Engineering Board has, in terms of the Engineering Profession Act, Cap. 321, ordered the holding of an inquiry in order to deliberate on the following charge, charges or complaint imputed to you as follows:

Notice is hereby given that the first sitting of the said inquiry will be held on the
(date) _____ (time) at _____
(place) at _____

The procedure to be followed will be that contained in the Engineering Profession (Erasure of Names Procedure) Regulations, 2000.

You are warned that failure on your part to appear without giving a reasonable explanation for your absence will not prevent the Board from proceeding with the inquiry.

Chairman,
Engineering Board.

Secretary,
Engineering Board.

(Date) _____

B 1918

Form B

Regulation 16.

ENGINEERING BOARD

***NOTICE TO A PERSON TO GIVE EVIDENCE AND/OR PRODUCE
DOCUMENTS IN AN INQUIRY***

(Date)

To _____

You are hereby required to attend before the Engineering Board in terms of the Engineering Profession Act, Cap. 321, and the Engineering Profession (Erasure of Names Procedure) Regulations, 2000, on the (date) _____ (time) at _____ and so on any other day to which the hearing may be put off, to give evidence and, or to produce the following documents _____ in the proceedings of an inquiry held against _____.

You are warned that failure to attend as hereby required will expose you to the sanctions prescribed by law.

Chairman,
Engineering Board.

Secretary,
Engineering Board.