

CHAPTER 269

THE ARCHITECTS AND QUANTITY SURVEYORS (REGISTRATION) ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 269

ARCHITECTS AND QUANTITY SURVEYORS (REGISTRATION) ACT

An Act to establish a Board to regulate the conduct of architects, quantity surveyors and architectural and quantity surveying consulting firms, to provide for their registration and for related matters.

[1st August, 1997]

[G.N. No. 319 of 1997]

Acts Nos.

16 of 1997

10 of 2001

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh269s1]1. Short title

This Act may be cited as the Architects and Quantity Surveyors (Registration) Act.

[PCh269s2]2. Interpretation

In this Act, unless the context requires otherwise—

"Appeals Authority" means the Appeals Authority referred to in section 19;

"architect" means any person registered as such under this Act;

"Board" means the Board of Architects and Quantity Surveyors established under section 3;

"foreign" in relation to firm or company means a firm or company registrable under Part XII of the Companies Ordinance whose majority shares are owned by non-citizens;

"member" in relation to the Board or the Appeals Authority includes the Chairman and the Vice-Chairman;

"Minister" means the Minister responsible for works;

"quantity surveyor" means any person registered as such under this Act;

"register" means the Register of Architects and Quantity Surveyors;

"registered" means being entered in the relevant register under this Act;

"registered consultant architect" means a person or firm whose name is entered in the register as a registered consultant architect;

"registered consultant quantity surveyor" means person or firm whose name is entered in the register as a registered consultant quantity surveyor;

"Registrar" means the Registrar appointed in accordance with the provisions of section 6.

PART II

ESTABLISHMENT OF THE BOARD AND ITS FUNCTIONS (ss 3-6)

[PCh269s3]3. Establishment of the Board

(1) There is hereby established a Board to be known as the Architects and Quantity Surveyors Registration Board.

(2) The Board shall be a body corporate with perpetual succession and common seal and—

- (a) in its corporate name be capable of suing and being sued;
- (b) be capable of acquiring, holding and disposing of movable and immovable property.

(3) The provisions of Schedule to this Act, shall have effect as to the constitution and proceedings of the Board.

(4) The Minister may, by order published in the Gazette, amend, add to, vary, revoke or replace the provisions of the Schedule to this Act.

[PCh269s4]4. Functions of the Board Act No. 10 of 2001 Sch.

Subject to the provisions of this Act and any regulations made under it, the functions of the Board shall be—

- (i) to maintain registers and sub-registers of architects, quantity surveyors or firms of architects or quantity surveyors both local or foreign, architectural and quantity

surveying assistants, architectural technicians and to make decisions on applications for their registration and annual subscription and such other fees as may be required;

(ii) to regulate the activities and conduct of architects, quantity surveyors and consulting firms;

(iii) to enter and inspect the construction, installation or erection sites for the purpose of verifying and ensuring that the works designed are supervised by registered professionals, and that they comply with all governing regulations and laws of the country;

(iv) to issue stop orders against works being constructed, levy penalties and take legal action of both civil and criminal nature against persons or firms both local or foreign, practising or operating as architects or quantity surveyors who breach any provision of this Act and by-laws made under it.

(v) to verify and ensure that, every site for construction, installation, erection, or alteration work, has a signboard which shows the names and addresses of the project, client, consultants and the contractors of the project and to take legal action against defaulters;

(vi) to promote and provide opportunities and facilities for the study of and for the training in architecture, quantity surveying and allied subjects;

(vii) to sponsor, arrange and provide facilities for courses, conferences, seminars, discussions and consultations on matters relating to the subjects referred to in paragraph (vi);

(viii) to sponsor, arrange and provide facilities for courses, conferences, seminars, discussions and consultations on matters relating to the subjects referred to in paragraph (vi);

(ix) to arrange for publication and general dissemination of materials produced in connection with the work and activities of the Board;

(x) to liaise with other institutions involved in architecture and quantity surveying;

(xi) to certify academic awards issued by training institutions for the purposes of consideration of awards for registration;

(xii) to grant diplomas, certificates and other awards of the Board for examinations conducted by the Board;

(xiii) to take disciplinary action against registered architects, quantity surveyors and consulting firms, contravening the provisions of this Act;

(xiv) to offer advisory services to the construction industry;

(xv) to liaise with both local and international professional boards and associations involved in the construction industry for the purposes of consultations, exchange of ideas, and experiences;

(xvi) to carry out any other functions which are in the public interests and which the Minister may, in writing, direct; and

(xvii) to promote and enforce professional conduct, ethics and integrity of architects, quantity surveyors and firms practising or operating in Tanzania.

[PCh269s5]5. Limitation of liability

A member of the Board shall not be personally liable for any act or default done or omitted in good faith in the course of carrying out the responsibilities and functions of or exercising the power conferred upon the Board.

[PCh269s6]6. Appointment of Registrar

(1) The Board shall appoint among registered architects or quantity surveyors a Registrar of the Board who shall hold office in accordance with the terms of his appointment.

(2) The Registrar shall be responsible and answerable to the Board.

PART III

REGISTRATION (ss 7-13)

[PCh269s7]7. Registers

(1) The Registrar shall keep and maintain, a register of architects, a register of quantity surveyors and a register of consulting firms in which the name of every person entitled to have his name entered in it as a registered architect, registered quantity surveyor or a registered consulting firm, as the case may be, shall be entered as soon as is practicable after his being accepted by the Board for registration.

(2) The registers referred to in subsection (1) shall each contain the following entries:

- (a) the date of entry;
- (b) name and postal address(es);
- (c) qualifications;

- (d) registration number;
- (e) category of registration (local or foreign);
- (f) physical address;
- (g) the key managerial, professional, technical and other personnel in the case of a firm;
- (h) principal of the firm;
- (i) type of registration;
- (j) duration of registration;
- (k) any other particulars which the Board may, direct.

(3) Any addition in the particulars other than required under subsection (1) shall be entered in the appropriate entry by the Registrar:

Provided that no architect, quantity surveyor, principal of a consulting firm shall be allowed to have more than one consulting firm.

[PCh269s8]8. Publication of registers and lists

(1) The Registrar shall, by notice published in the Gazette, as soon as may be practicable after registration, publish the name, address and qualifications of each registered architect, registered quantity surveyor, and registered consulting firm (including principals) and subject to the directions of the Board, may publish any amendment to or deletion from the register.

(2) The Registrar shall by notice published in the Gazette, as soon as practicable after the first day of January each year, publish a list containing the names, addresses and

qualifications of all registered architects, quantity surveyors and consulting firms remaining on the register after 31st December of the previous year.

[PCh269s9]9. Publication prima facie evidence of registration

(1) A publication under the provisions of section 8, shall be prima facie evidence that persons named in the notice are registered under this Act, and the deletion from the register of the name of any person notified by that publication, shall be prima facie evidence that that person is not so registered.

(2) The registers, lists and all copies or extracts from them which have been duly certified by the Registrar, shall be accepted in all courts and tribunals or other bodies authorized to receive evidence of the facts stated in them.

(3) Any person may inspect the register and any document relating to any entry in it and may obtain from the Registrar a copy or an extract from the register or any document on payment of the prescribed fee.

(4) No order compelling the production of the register or any document kept by the Registrar shall be issued from any court, unless the order bears the seal of the court issuing the order and is accompanied by a statement that it is issued by a court of law.

(5) The Registrar shall, in any legal proceeding to which he is not a party, not be compelled—

(a) to produce the register or any document if its contents can be proved under subsection (1) of this section; or

(b) to appear as a witness to prove any entry in the register, the matters recorded in the register or any document, unless the court for special cause, orders.

[PCh269s10]10. Qualifications for registration

Subject to the provisions of this Act, a person or persons shall be eligible, on making an application to the Board in the prescribed manner and on payment to the Board of the prescribed fees, to be registered under this Act as an architect, quantity surveyor or as an architectural or quantity surveying firm if he satisfies the Board—

(a) if he is a natural person, that—

(i) he has attained the age of 25 years; and

(ii) he has had a minimum of five years for architects and three years for quantity surveyors of approved training leading to a degree or diploma from a university or school of architecture or quantity surveying recognised by the Board; and

(iii) he has had a minimum of two years' postgraduate professional training in Tanzania, in the work as an architect or quantity surveyor to the satisfaction of the Board and has passed the prescribed professional interview, written examination or both; and

(iv) his professional and general conduct has been such as in the opinion of the Board, to make him a fit and proper person to be registered under this Act;

(b) if it is a company it—

(i) has been admitted as a corporate member of an approved professional institution whose qualifications for the admission are not less than those prescribed in paragraphs (ii) and (iii) and has satisfied the Board through a professional interview; and has practised in Tanzania under a registered architect or quantity surveyor,

as the case may be, in an architectural or quantity surveying office approved by the Board for not less than twelve calendar months;

(ii) the partners or principals of the firm or company shall be registered with the Board as either registered architects or registered quantity surveyors as the case may be:

Provided that this shall not prevent a registered architect or quantity surveyor conducting business with a registered engineer.

[PCh269s11]11. Conditions for consultants

(1) All consultants shall fulfil conditions which shall, from time to time, be prescribed by the Board.

(2) The Board shall require an applicant for registration under this Act to satisfy it that, his professional and general conduct has been such as, in the opinion of the Board, to make him a fit and proper person to be registered under this Act and the Board may direct the Registrar to postpone the registration of an applicant until so satisfied or to reject to register him where he fails to satisfy the Board.

(3) Upon registration, the person shall be issued with a certificate of registration indicating the number of registration, type, whether local or foreign, date of registration and duration of registration, and the certificate so issued shall be the property of the Board and shall be withdrawn and returned to the Board upon suspension or cancellation of registration.

[PCh269s12]12. Temporary registration

(1) Where a person satisfies the Board that—

- (a) he is not ordinarily resident in Tanzania; or
- (b) he is or he intends to be present in Tanzania in the capacity of a professionally qualified architect or quantity surveyor for the express purpose of carrying out a specific assignment for which he has been engaged; or
- (c) he is, or immediately prior to entering Tanzania was, practising as an architect or quantity surveyor in the capacity which satisfies the Board of his fitness to serve the public as a qualified architect or quantity surveyor; or
- (d) the principal in the case of a firm has the resident and work permits to carry out the specific assignment;
- (e) he has in his employment only those expatriates whose qualifications and skills are not available in Tanzania; or
- (f) he has deposited an affidavit with the Board to the effect that, once the assignment is completed or the investment has been wound up, then he shall cease to practise as an architect, quantity surveyor or consulting firm, as the case may be, the Board may, if it thinks fit, direct that the person be registered under this section for the duration of the specific assignment.

(2) An application for registration under this section shall be in the prescribed form, accompanied by the prescribed fee, and the Board may require an applicant to appear before it for the purposes of considering his application and may require the applicant to produce documentary evidence of the relevant work experience or employment immediately prior to his entering Tanzania.

(3) Registration of a person under this section shall continue only for the period or duration of the assignment as is directed by the Board under subsection (1) and on its termination that person shall cease to be so registered and shall return the registration certificate to the Board and in case of doubt the decision of the board as to the termination of the specific assignment or investment shall be conclusive.

(4) A person registered under this section shall, in relation to the period or the duration of the specific assignment or investment as is directed by the Board under subsection (1) and to things done and omitted in the course of any specific assignment or investment, be treated as being duly registered under this Act as a registered architect or quantity surveyor, as the case may be, a registered consulting firm, but in relating to other matters shall be treated as not so registered.

(5) For the purpose of this section the word persons includes body of persons corporate or unincorporate.

[PCh269s13]13. Restriction on registration of non-citizens and foreign consulting firms

(1) No person or body of persons not citizens of the United Republic of Tanzania shall be registered as a local architect or quantity surveyor or allowed to form a local consulting firm or company unless—

(a) in the case of a natural person, he is a citizen of the United Republic of Tanzania; and

(b) in the case of a company it is a company incorporated in Tanzania and whose majority shares are owned by the citizens of United Republic of Tanzania.

(2) Any person or company which does not fulfil the conditions stipulated in subclause (1) of this section, shall be registered as foreign or foreign consulting firm as the case may be.

(3) The Board may refuse to register any person or firm as an architect, quantity surveyor or consultant if in its opinion it is against public interest or does not meet the conditions stipulated in section 11 of this act; or is a building contractor, or is a person whose residence or work permits do not allow him to practise as an architect or quantity surveyor or is a person whose general and professional conduct has been such as in the opinion of the Board, to make him not a fit and proper person to be registered under this Act.

PART IV

CANCELLATION AND SUSPENSION OF REGISTRATION (ss 14-21)

[PCh269s14]14. Cancellation

(1) The Board may at any time direct that the name of a registered architect, registered quantity surveyor or registered architectural or quantity surveying firm be deleted from the relevant register where that person or firm has—

(a) failed either deliberately as a result of change in address for which he has failed to notify the Registrar of his or its current address within a period of six months from the date of an enquiry sent by the Registrar by a registered letter to the address appearing in the register against his name; to respond to the enquiry; or

(b) requested that his name be deleted from the register, in which case that person or firm may be required to satisfy the Board by affidavit lodged with the Registrar

that no criminal proceedings under section 16 are being, or are likely to be taken against him; or

- (c) failed to pay annual subscription fees for two consecutive years; or
- (d) failed to meet the current registration criteria of the Board; or
- (e) the period specified in section 12 has elapsed; or
- (f) failed to practise or discharge his or its duties, responsibilities and obligations as an architect, quantity surveyor or consultant; or
- (g) been found by the Board to be guilty of any contravention of this Act or subsidiary legislation made under it or of any misconduct which is referred to in section 16.

(2) The Registrar shall delete from the register the name of every deceased person or of any architectural or quantity surveying firm which has ceased to exist and shall also delete from it any entry which has been incorrectly or fraudulently made or procured.

(3) Except in the circumstances specified in paragraph (a) of subsection (1) and in subsection (2), the deletion from the register of the name of any person or of a non-existent architectural or quantity surveying consulting firm shall be notified by the Registrar to the person or the concerned firm, by recorded delivery or a registered letter to the address appearing in the register against his name immediately prior to the deletion.

(4) Subject to the provisions of section 14, a person or an architectural or quantity surveying consulting firm whose name has been deleted from the register under this section shall cease, from the date of the deletion, to be registered for the purposes of this

Act, and that person or the principal of that Company or firm shall be obliged to surrender to the Board at once the certificate of registration for cancellation.

(5) A principal whose architectural or quantity surveying firm is deleted from the register shall not be permitted to register a new consulting firm providing architectural or quantity surveying services after having been deleted as a registered consulting firm.

[PCh269s15]15. Restoration to the register

(1) Where the name of any person or firm has been deleted from the register under section 14, the name of that person or firm shall not be again entered in the register save on a direction of the Board.

(2) Where the name of any person or firm has been deleted from the register or the effect of the registration of any person or firm has been suspended in terms of paragraph (b) of section 16, the Board may, either on its own motion or on application in the prescribed manner of the person or firm concerned, and in either case after holding an inquiry as the Board may deem fit, direct that—

- (a) the deletion from the register be confirmed; or
- (b) the name of that person or firm be restored to the register; or
- (c) the suspension of the effect of the registration of that person or firm be terminated.

(3) A direction given by the Board under subsection (2), may include provision for the date upon which a restoration to the register or the termination of suspension of the effect of registration shall take effect and for the payment by the person or firm concerned

of the fee or penalty, not exceeding the amount payable on an application for registration, as the Board may determine.

[PCh269s16]16. Power to suspend registration, etc.

If any architect, quantity surveyor or consulting firm is convicted of an offence under this Act, or is after due inquiry by the Board found to have committed an offence due to any act or omission amounting to improper, disgraceful or negligent professional misconduct, or has breached the regulations or by-laws of the Board, or a firm having been incorporated, has secured a certificate of compliance or had secured registration of business licence which has not been issued by the licensing committee of the responsible ministry and endorsed by the Board; or has procured a current business licence without—

(a) proof of having submitted annual returns to the Board for the previous year; or

(b) having submitted a registration certificate of the Board to the licensing officer or authority;

(c) submitting proof of having paid the registration or annual subscription fees to the Board for the year of which the business licence is being sought, the Board may—

(i) caution or censure that registered architect, quantity surveyor or firm; and

(ii) direct that, during the period which the Board may specify, the registration of the name shall not have effect; and

(iii) direct that the name be deleted from the register; and

(iv) take legal action against both the offender and the officer or authority responsible for issuing the certificate of incorporation, compliance, registration or the trade licence; as the case may be.

[PCh269s17]17. Proceedings at an inquiry

(1) Upon any inquiry held by the Board under section 15, the person or firm whose conduct is being inquired into, shall not be entitled to be represented by an advocate.

(2) For the purposes of proceedings at any inquiry held by it, the Board shall have power—

- (a) to administer oaths;
- (b) to summon persons to attend and give evidence; and
- (c) to order the production of documents.

(3) All summonses and orders issued under the hand of the Chairman or the Vice-Chairman of the Board, shall be deemed to be issued by the Board.

(4) The Chairman, or in his absence the Vice-Chairman of the Board, shall record or cause to be recorded a summary of any oral or written evidence given at an inquiry held by the Board.

(5) Subject to the provisions of this section and of any regulations made under section 36, the Board shall have power to regulate its procedure at an inquiry held by it.

(6) For the purpose of Chapter XI of the Penal Code*, an inquiry held by the Board shall be deemed to be judicial proceedings.

[PCh269s18]18. Disobedience to summons and refusal to give evidence

Any person who, having been served with a summons or an order issued under the provisions of section 17, refuses or omits without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Board, or refuses or omits without sufficient cause to produce any document in his possession or under his control which are specified in the order, commits an offence, and upon conviction is liable to a fine of not less than one hundred thousand shillings or to an imprisonment for a term not exceeding one year but not less than six months or to both the fine and imprisonment:

Provided that, any person giving evidence before the Board shall, in respect of any evidence given by him or any document produced by him, be entitled to all privileges to which he would be entitled as a witness before the High Court.

[PCh269s19]19. Appeals

(1) Any person or firm aggrieved by a decision of the Board to refuse to register, any name, or to delete the name from any register, or to refuse to restore the name in the register, or to suspend the effect of registration of the Board and in any appeal the Appeals Authority may give any directions in the matter which it thinks proper, and any direction of the Appeals Authority under this section shall be final, conclusive and binding upon all parties concerned.

(2) The Board may appear as respondent and be heard on any appeal against its decision and, for the purposes of enabling directions to be given as to the costs of any appeal, the Board shall be deemed to be a party to it, whether or not it shall appear at the hearing of the appeal.

[PCh269s20]20. Appeals Authority

The Appeals Authority shall consist of–

- (a) Chairman nominated by the Minister;
- (b) a member of the Attorney-General's Chambers nominated in that behalf by the Attorney-General;
- (c) two members appointed by the Minister who are not employees of the Ministry of Works;
- (d) for other members appointed by the Minister, who shall be–
 - (i) one registered architect nominated by the Architectural Association of Tanzania;
 - (ii) one registered quantity surveyor nominated by the Tanzania Institute of Quantity Surveyors;
 - (iii) one registered engineer nominated by the Association of Consulting Engineers, Tanzania;
 - (iv) one registered contractor nominated by the Contractors Association, Tanzania.

[PCh269s21]21. Rules of proceedings before Appeals Authority

(1) The Minister may, after consultation with the Attorney-General, make rules and regulations providing for the taking of further evidence, the fees to be paid, the procedure to be followed and the manner of notifying the Board of an appeal.

(2) Subject to any rules made under subsection (1), the provisions of section 16 and section 17 shall apply mutatis mutandis, in relation to appeals under section 18 and to persons summoned to give evidence before the Appeals Authority.

PART V

RESTRICTION ON PRACTISING AS AN ARCHITECT, QUANTITY SURVEYOR OR ARCHITECTURAL AND/OR QUANTITY SURVEYING FIRM (ss 22-27)

[PCh269s22]22. Use of description "Registered" and effect of registration

Any person or firm whose name has been entered in the register shall, so long as his or the firm's name remains in the register, be entitled to adopt and use the style and title "Registered Architect", "Registered Quantity Surveyor" or "Registered Consulting Firm" as the case may be, or such contraction of it as the Board may approve, and to offer his or the firm's services to the public for a fee or reward or by way of practice as a registered architect, a quantity surveyor or a consulting firm, as the case may be.

[PCh269s23]23. Restrictions on practising as an architect, quantity surveyor or consulting firm

(1) Any person who or any firm which—

(a) not being a registered architect, a registered quantity surveyor or a registered consulting firm falsely pretends to be such; or

(b) not being entitled to do so under section 22, use a style, or title of "architect", "quantity surveyor" or "consulting firm", as the case may be, or any other name, style, title or description implying, whether in itself or in the circumstances in which it is used, that that person or firm is so registered; or

(c) not being an architect, holds himself out (other than for the purpose of applying for registration) whether directly or by implication, to be a professionally qualified architect; or

(d) not being a registered quantity surveyor, holds himself out (other than for the purpose of applying for registration) to be a professionally qualified quantity surveyor;

(e) not being a registered consulting firm holds itself out (other than for the purpose of applying for registration) to be a professionally qualified consulting firm;

(f) not being a registered architect, practises or carries on business in Tanzania as an architect;

(g) not being a registered consulting firm, practises or carries on business in Tanzania as an architectural or quantity surveying consulting firm, commits an offence and upon convictions, is liable to a fine of not less than five hundred thousand shillings or to imprisonment for a term not less than three years or to both the fine and imprisonment.

(2) Any person who practises under the name, title or style containing any words or phrases implying "architect", "quantity surveyor" or "quantity surveying or architectural consulting firm" unless he or it is registered under this Act, as an architect or quantity surveyor or architectural or quantity surveying firm, as the case may be, commits an offence and upon conviction, is liable to a fine of not less than five hundred thousand shillings or to an imprisonment for a term not exceeding five years but not less than three years or to both the fine and imprisonment.

(3) A public or private institution or organisation which provides consultancy services in architecture or quantity surveying or approves architectural or quantity surveying drawings or documents, unless its key officers responsible for taking or approving managerial or technical decisions are registered with the Board, commits an offence and upon convictions, is liable to a fine of not less than five hundred thousand shillings.

[PCh269s24]24. Bodies of persons operating as architects, quantity surveyors or consulting firms

(1) No body of person, whether corporate or unincorporate, shall carry on the business of architects or quantity surveyors unless all the principals or partners, are so registered:

Provided that, where one or more of the principals or partners, as the case may be, of the body of persons are registered architects, the remaining being registered quantity surveyors, then that body of persons may lawfully practise both as architects and quantity surveyors.

(2) Where a principal or partner of a body of persons, whether corporate or unincorporate, carrying on business as architects or quantity surveyors dies, that body of persons may, notwithstanding the provisions of subsection (1), be allowed to complete the projects or contracts in hand only, as if that legal representative were registered architects or, as the case may be, registered quantity surveyors.

(3) Nothing in this Act shall be construed as entitling any body of persons, whether corporate or unincorporate, to be registered as, or as empowering the Registrar to register any body of persons as, registered architects or quantity surveyors.

(4) A body of persons, whether corporate or unincorporated, after fulfilling the conditions for registration, may be registered as architects or quantity surveyors or consultants and if so registered, may lawfully carry on business as registered architects, quantity surveyors or consultants, as the case may be, and, in the case of body of persons so registered or applying to be so registered, references in this Act to the required professional qualifications and experience or conduct as prescribed by the Board of any architect, quantity surveyor or consulting firm or any applicant shall be construed as references to the professional qualification, experience and conduct as prescribed by the Board of persons who are principles or partners, as the case may be, or are employed by, that body of persons and who are participating or, in the case of application, shall participate, in the activities of the body of persons in carrying out of its business as registered architects, quantity surveyors or consulting firms:

Provided that, the board may refuse to register any body of persons as architects, quantity surveyors or consulting firms, or direct deletion from the register of the name of any body of persons registered as such if it is satisfied that none of the principals or partners, as the case may be, is a person who, if he had applied to be registered as an architect or quantity surveyor in his individual capacity would have been accepted for registration.

(5) Any body of persons which carries on business as registered architects, quantity surveyors or architectural and quantity surveying firms in contravention of any of the provisions of this section commits an offence and upon conviction, is liable to a fine of not exceeding five hundred thousand shillings and not less than three hundred thousand shillings or to imprisonment for a term not exceeding three years or to both the fine and imprisonment.

[PCh269s25]25. Definition of "carrying on business" or "practising as" architect, etc.

For the purposes of this Act, a person or firm shall be deemed to be carrying on business or practising as an architect, quantity surveyor or consulting firm if for a fee, reward or other valuable consideration, he or it offers or renders services as an architect, quantity surveyor or consulting firm, as the case may be, to another person, whether those services are offered or rendered under a contract of service or a contract for services or otherwise.

[PCh269s26]26. Exemption

The Minister may, upon the written recommendation of the Board, for public interest, by order published in the Gazette, exempt any person or class of persons from all or any provisions of this Part or may modify all or any of the provisions of this Part in their application to any person or body of persons.

[PCh269s27]27. Proceedings for offences committed within certain period

(1) No persons shall be prosecuted for an offence under this Part committed within the period of six months after the commencement of this Act.

(2) The Board may, with the consent of the Minister, by notice published in the Gazette, extend the period of six months provided for in subsection (1) by any further period which it may specify.

PART VI

ACTIVITIES OF THE BOARD AND FINANCIAL PROVISIONS (ss 28-34)

[PCh269s28]28. Board may delegate its functions

The Board may delegate its functions under this Act to any officer or committee of the Board.

[PCh269s29]29. Accounts and audit

(1) The Board shall cause to be kept proper books of accounts and shall, as soon as practicable after the end of each financial year, cause the accounts relating to that financial year together with—

- (a) a statement of income and expenditure during that financial year; and
- (b) a statement of the assets and liabilities of the last day of that financial year,

to be submitted to and audited by duly registered and authorized Auditors.

(2) Copies of the statements referred to in subsection (1) and a copy of the auditors' report shall be forwarded to the Minister.

[PCh269s30]30. Registrar's report

The Registrar shall, at the end of each financial year, prepare a report on the activities of the Board during that financial year and submit that report to the Minister.

[PCh269s31]31. Funds of the Board

The funds and resources of the Board shall consist of—

- (a) Registration and annual subscription fees by registered architects, quantity surveyors and consulting firms;
- (b) any sums which may be provided for the purposes of the Board by Parliament;
- (c) any sums which the Board may receive by way of grant or loan from any person or organization;
- (d) any sums which the Board may, from time to time, borrow for the purposes of the Board;
- (e) any sums which may, in any manner, become payable to or vested in the Board either under the provisions of this Act or any other written law, or incidental to the carrying out of its functions.

[PCh269s32]32. Power to invest Act No. 3 of 1967

The Board shall have power to invest its funds in any investments which are authorized by, and subject to any conditions which are prescribed by the Trustee Investments Act, 1957 in relation to investments of funds by a trustee.

[PCh269s33]33. Annual statement of accounts and Registrar's report to be laid before the National Assembly

The Minister shall cause to be laid before the National Assembly, as soon as may be practicable after he has received them—

- (a) copies of the statements referred to in subsection (1) of section 29 together with a copy of the auditors' report;

- (b) a copy of the Registrar's report.

[PCh269s34]34. Minister may give directions

The Minister may, by writing under his hand, give the Board directions of a general or specific nature which are in the national interest and the Board shall comply with those directions.

PART VII

MISCELLANEOUS PROVISIONS (ss 35-41)

[PCh269s35]35. Offences Act No. 10 of 2001 Sch.

Any person who or a firm which—

- (a) fraudulently makes, or causes or permits to be made, any false or incorrect entry in the register or any copy of it; or

- (b) fraudulently procures or attempts to procure, whether from the firm, for himself or for any other person, registration as an architect, quantity surveyors or consulting firm; or

- (c) fraudulently procures or attempts to procure, whether for the firm, himself or any other person a trading licence or professional licence for an architect, quantity surveyor or consulting firm; or

- (d) knowingly and wilfully makes any statement which is false in a material particular, or which is misleading, with a view to gaining any advantage, concession or privilege under this Act, whether for himself or for any other person;

(e) provides architectural or quantity surveyors consultancy services in buildings or civil works without being properly registered under this Act, commits an offence and upon conviction is liable to a fine of not exceeding five hundred thousand shillings but not less than three hundred thousand shillings or to imprisonment for a term not exceeding five years but not less than three years or to both the fine and imprisonment.

[PCh269s36]36. Professional fees chargeable by architects, etc.

(1) Every registered architect, every registered quantity surveyor and every registered consulting firm shall be bound by the scale of fees, (if any) prescribed by the Board notwithstanding any provision to the contrary in any regulations or by-laws of the association, institute, society or organization of which he is a member.

(2) Any provision in any regulation or by-law of any association, institute, society or organization of architects or quantity surveyors or consulting firms, incorporated, registered or founded, providing for a minimum scale of fees for services rendered by an architect, quantity surveyor or consulting firm, as the case may be, shall not bind any member in relation to any services rendered in Tanzania and that provisions in any regulation or by-law shall not be put forward by its members as a ground for claiming fees at a rate higher than the rate prescribed, authorized, approved or decided upon by the Board or any person acting as arbitrator appointed by the Board or with the consent of the parties in any dispute in relation to any fees.

[PCh269s37]37. Regulations

Subject to the provisions of section 38, the Minister may make regulations generally for the better carrying out of the provisions of this Act, and those regulations may, without prejudice to the generality of the proceeding provision provide for—

(a) the conduct of the business of the Board and the procedure it shall follow in any inquiry under this Act;

(b) the appointment by the Board from amongst its members of committees and subcommittees and the co-option of persons to them;

(c) the duties of the Registrar;

(d) persons who shall be entitled to registration, and anything which is permitted or required by this Act to be prescribed;

(e) providing for and regulating disciplinary proceedings against the Registrar and officers appointed by the Board;

(f) taking disciplinary action against the Registrar and officers appointed by the Board;

(g) any other act or thing which is reasonable and in accordance with the laws and regulations of the country.

[PCh269s38]38. By-laws Act No. 10 of 2001 Sch.

With the consent of the Minister, the Board may make by-laws for the better carrying out of its objects and functions, and without prejudice to the generality of the proceeding provisions may make by-laws—

(a) prescribing scale of fees which may be charged by architects, quantity surveyors or consulting firms for services rendered by them;

(b) prescribing diplomas, certificates and other awards which may be conferred or granted by the Board;

(c) prescribing the conditions which must be satisfied before any diploma, certificate or other award, may be granted;

(d) prescribing the manner in which diplomas, certificates or other awards may be granted;

(e) regulating the conduct of professional interviews and examinations;

(f) prescribing fees for admission to any course offered by the Board;

(g) prescribing fees payable by the candidates for any professional interview or examination held or conducted by the Board;

(h) providing for and regulating disciplinary proceedings against the officers of the Board, the students and candidates;

(i) prescribing rules for professional conduct and ethic for architects, quantity surveyors and consulting firms;

(j) providing for the registration and regulating employment of pupils and draughtsmen;

(k) prescribing the fees to be paid on application, registration, annual subscription, the issue of certificates or registration and extracts, copies and lists of, or in relation to entries in the registers;

(l) reconciliation parties involved in disputes and in cases of disagreement, referring those cases to a legally established authority catering for arbitration;

(m) conducting arbitration for parties under dispute whose contracts or agreement stipulated that the Board shall arbitrate their case;

(n) evaluating certificates, diplomas, degrees and the attendance academic transcripts for the express purpose of establishing whether or not the said certificates, diplomas or degrees meet the minimum acceptable qualification for registration with the Board;

(o) for regulation of architects and quantity surveyors in their execution of buildings or civil works, and for that purpose to prescribe standards and conditions to be observed by them and to provide sanction for non compliance thereto;

(p) to provide for a procedure for controlling or stopping breaches of the provisions of this Act and Regulations made under it.

[PCh269s39]39. Proceedings not to be invalid by reason of irregularity

No act or proceeding of the Board shall be invalid by reasons only of the number of the members not being complete at the time of any act or proceedings or of any defect in the appointment of any members or of the fact that any member was at the time in question disqualified or disentitled to by reason to act as such.

[PCh269s40]40. Repeal of Act No. 35 of 1972

(1) Subject to the coming into operation of this Act, all references in the Architects, Quantity Surveyors and Building Contractors Act, 1972 *, shall be deemed to have been repealed by this Act and the provisions of this Act shall apply in relation to the Architects and Quantity Surveyors registration and supervision.

(2) The Minister may, at any time before the commencement of this Act, by order published in the Gazette, make transitional provisions which he may deem necessary for the better control and general supervision of the Architects and Quantity Surveyors.

[PCh269s41]41. Savings Act No. 10 of 2001 Sch.

(1) Notwithstanding the repeal made under section 40 anything done or any action taken or purported to have been done under the repealed Act, shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done under the provisions of this Act.

(2) All subsidiary legislation made or given under the repealed Act shall be deemed to have been made or given under the provisions of this Act and shall remain in force until revoked or rescinded by other subsidiary legislation made or given under this Act.

SCHEDULE

(Section 3)

1. Composition of the Board and tenure of office of the members

(1) The Board shall consist of the Chairman and not less than six and not more than ten other members appointed by the Minister—

(a) A Chairman of the Board shall be a person who has either expertise, knowledge or long experience in the construction industry in Tanzania;

(b) One member appointed from the Architectural Association of Tanzania (AAT) who must be a registered Architect;

(c) One member appointed from the Tanzania Institute of Quantity Surveyors (TIOS) who must be a registered Quantity Surveyor;

- (d) One member appointed from the Attorney-General's Chamber;
- (e) One member appointed from University College of Lands and Architectural Studies who must be a registered Architect or Quantity Surveyor;
- (f) One member appointed at the Minister's discretion.

(2) A member of the Board shall, unless he dies, resigns or otherwise vacates his office, hold office for a minimum period of three years or until the time his appointment is revoked by the Minister in the public interest.

(3) The Minister may fill any casual vacancy occurring in the membership, and may revoke the appointment of any member, and appoint a replacement.

(4) A member may resign by giving notice in writing to the appointing authority of his intention to do so.

(5) One third of the members for the Board shall be changed upon the expiry of a three year term except when the whole Board is being dissolved.

(6) The tenure of office of the Board shall be three years and the members of the Board shall be eligible for re-appointment.

2. Election of Vice-Chairman

(1) The members shall elect a Vice-Chairman of the Board from amongst their number.

(2) The Vice-Chairman shall, subject to his continuing to hold office as a member, hold office as Vice-Chairman for a period of two years from the date of his election and shall be eligible for re-election.

3. Meeting of the Board

(1) Subject to the provisions of subparagraph (2) of this paragraph, the Board shall meet not less than six times every year and all meetings of the Board shall be convened by the Chairman, or in his absence or incapacity through illness, the Vice-Chairman, who shall appoint a suitable time, place and date for the holding of each meeting.

(2) The Chairman, or in his absence or incapacity through illness, the Vice-Chairman, shall convene a special meeting of the Board on a request in writing signed by not less than a simple majority of the total number of the members of the Board for that meeting and shall cause the meeting to be held within twenty-one days of the receipt by him of the request.

(3) The Chairman, or in his absence the Vice-Chairman, shall preside at the meetings of the Board and in the absence of both the Chairman and the Vice-Chairman, the members present at the meeting shall elect one of their number to be a chairman for that meeting.

4. Quorum and voting

(1) A simple majority of the total number of members in office shall constitute a quorum at any meeting of the Board.

(2) All acts, matters and things authorized to be done by the Board shall be decided by resolution of the members present.

(3) A decision of the majority of members present and voting at a meeting of the Board shall be deemed to be a decision of the Board.

(4) Every member of the Board shall have one vote and in the event of an equality of votes the chairman of the meeting shall have a second or casting vote in addition to his deliberative vote.

(5) Notwithstanding the provisions of subparagraph (1) to (4) above, where the chairman so directs, a decision may be made by the Board without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views, but any member shall be entitled to require that decision be deferred until the subject matter is considered at a meeting of the Board:

Provided that a member of the Board who has a strong objection to the decision of the Board shall have the right and entitlement to have his objection recorded in the Minutes of the Board.

5.

Minutes in proper form of each meeting of the Board shall be kept and shall be signed by both the chairman and secretary of the meeting after adoption by the Board.

6.

Subject to provisions, of this Schedule and of any regulations which may be made under this Act, the Board shall have power to regulate its own procedure.

7.

The seal of the Board shall not be affixed to any instrument except in the presence of the Chairman, the Vice-Chairman, the Secretary, and one other member of the Board.

8.

The Registrar shall act as the Secretary of the Board and shall be entitled to be present and to speak, but not to vote, at the meetings of the Board.

9.

The Board may appoint any other officers as it may consider necessary on the terms and conditions which may be prescribed by regulations made under sections 37 and 38 of this Act.