

CHAPTER 270

THE PROFESSIONAL SURVEYORS (REGISTRATION) ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 270

THE PROFESSIONAL SURVEYORS (REGISTRATION) ACT

An Act to provide for the registration of professional surveyors, the establishment of a National Council to regulate the standards of conduct and activities of professional surveyors and for matters connected with the practice of the profession of land surveying and land economy.

[1st August, 1978]

[G.N. No. 11 of 1978]

Act No. 2 of 1977

PART I

PRELIMINARY (ss 1-2)

[PCh270s1]1. Short title

This Act may be cited as the Professional Surveyors (Registration) Act.

[PCh270s2]2. Interpretation

In this Act, unless the context otherwise requires—

"Council" means the National Council of Professional Surveyors established by section 3;

"diploma" means any certificate, testimonial, licence, authority to practise or other document known by any other name or description granted by any university, college, corporation or other body, or by any department of, or person acting under the authority of the Government of any country as evidence—

(a) of the membership or fellowship of the holder of any body of persons engaged in or entitled to practise the profession of land surveying and land economy; or

(b) that the holder has knowledge of, and skill in, the practice of the profession of land surveying and land economy; or

(c) of the attainment by the holder of professional academic qualifications relating to the profession of land surveying and land economy;

"Minister" means the Minister responsible for land development;

"professional surveyor" means a person trained, qualified or possessing adequate skill and experience to enable him to practise the art of—

(a) examining the accounts, condition, situation, durability, tenure or other interest in, or properties of, an estate, a building, or other structure, or real property, and estimating, appraising or determining the value thereof for the purposes of the

management, sale, purchase, investment, mortgage, insurance or planning or forecasting its future use or development; or

(b) studying in detail, and applying precise measurements and other data, to a portion of the surface of the earth and determining, by linear measurements, its form, extent, contour surface and situation for the purposes of—

(i) delineating property boundaries and compiling data for the registration of title to land;

(ii) providing control systems for mapping;

(iii) portraying on a map the physical features of the earth or a part thereof;

(iv) producing data for plans required for construction activities; or

(v) portraying statistical and other data on specialist maps,

and includes an appraiser, an assessor and a land economist;

"register" means the register of professional surveyors maintained by the Council for the purposes of this Act;

"Secretary" means the Secretary to the Council appointed under section 7.

PART II

ESTABLISHMENT OF COUNCIL AND REGISTRATION OF PROFESSIONAL SURVEYORS (ss 3-15)

[PCh270s3]3. Establishment of Council

There is established a Council to be known as the National Council of Professional Surveyors which shall be responsible for regulating the standards of conduct and activities of professional surveyors in accordance with the functions and powers conferred upon it by this Act.

[PCh270s4]4. Composition of Council, tenure of office of members, etc.

(1) The Council shall consist of not less than six and not more than eight members and the Minister shall nominate as its chairman one of the members appointed by him under paragraph (a) of subsection (2).

(2) The members shall be—

(a) three registered professional surveyors in the service of the Government, appointed by the Minister;

(b) three registered professional surveyors not being in the service of the Government, appointed by the Minister; and

(c) not more than two other persons, appointed by the Minister:

Provided that the first persons to be appointed under paragraphs (a) and (b) shall be persons who, in the opinion of the Minister, are qualified for registration under subsection (1) of section 9.

(3) A member shall hold office for such period as may be specified in the instrument of his appointment, or if no such period is specified, for a period of three years from the date of his appointment and shall be eligible for reappointment.

(4) The office of a member shall become vacant if—

(a) his appointment is revoked;

- (b) he resigns; or
- (c) he dies.

(5) A member may resign by giving notice in writing to the Minister, and from the date specified in the notice, or if no date is specified, from the date of the receipt of the notice by the Minister, he shall cease to be a member.

(6) The procedure of the Council shall be as may be prescribed by regulations made under section 27.

[PCh270s5]5. Functions of Council

Subject to the provisions of this Act, the functions of the Council shall be—

- (a) to keep and maintain a register for the registration of professional surveyors in accordance with the provisions of this Act;
- (b) to consider and decide upon applications for registration of professional surveyors;
- (c) to regulate the standards of conduct and activities of professional surveyors and the practice of the profession of land surveying and land economy;
- (d) to promote interest in, and the advancement of, the profession of land surveying and land economy;
- (e) to provide opportunities or facilities for the study of and training in land surveying and land economy, and to promote the development of research and the application of technical information relating to land surveying and land economy;

(f) to evaluate academic and practical qualifications for the purposes of registration of professional surveyors under this Act;

(g) to foster co-operation among professional surveyors and between the Council and other institutions or organisations whether or not concerned with the profession of land surveying and land economy;

(h) to offer to the Government and to other national institutions technical advice on matters relating to land surveying and land economy;

(i) to assist members of the public in matters touching upon, ancillary or incidental or conducive to the practice of the profession of land surveying and land economy;

(j) to carry out such other functions as may be conferred upon the Council by any written law or as are incidental to the performance of its functions under this Act.

[PCh270s6]6. Powers of Council to cancel or suspend registration

The Council may, after due inquiry and upon such grounds as may be prescribed by regulations made under section 27, cancel or suspend the registration of a professional surveyor:

Provided that in every inquiry conducted by the Council under this section the Council shall give the professional valuer concerned a reasonable opportunity of answering all allegations made against him.

[PCh270s7]7. Appointment and functions of Secretary

(1) The Minister shall appoint a public officer to be the Secretary to the Council.

(2) The Secretary shall perform the duties prescribed in relation to his office under this Act and shall perform such functions as may, from time to time, be specified by the Minister or the Council.

[PCh270s8]8. Register of professional surveyors

(1) As soon as practicable after the Council has accepted any person for registration as a professional surveyor, the Secretary shall enter into the register in respect of that person the following particulars—

- (a) his name and address;
- (b) the date of registration;
- (c) his qualifications and the status of his registration; and
- (d) such other particulars as the Council may from time to time direct.

(2) All changes in the particulars registered under subsection (1) shall be entered into the register by the Secretary.

(3) The Secretary may, with the general or specific approval of the Council, rectify any clerical errors in the register or other document containing extracts from the register.

[PCh270s9]9. Qualifications for registration

(1) Subject to any regulations made under section 27 providing for the suspension or cancellation of the registration of a professional surveyor, a person shall be entitled, on making an application to the Council in the prescribed manner, to be registered under this section and to offer his services for profit or gain if he is—

(a) the holder of a diploma which is recognised for the time being by the Council as furnishing a sufficient guarantee that he has academic knowledge of, skill and practical experience in, land surveying and land economy; or

(b) a person who has, after obtaining the diploma, complied with such additional requirements relating to the acquisition of practical experience as the Minister may, after consultation with the Council, prescribe by regulations made under section 27.

(2) The Council may require an applicant for registration under this section to satisfy it that his professional and general conduct renders him a fit and proper person to be registered.

[PCh270s10]10. Provisional registration

(1) Subject to any regulations made under section 27 providing for the suspension or cancellation of the registration of a professional surveyor, any person who is not entitled to be registered by reason only of the fact that he has not complied with the additional requirements referred to in paragraph (b) of subsection (1) of section 9 shall, if upon application in the prescribed manner, he satisfies the Council that he has secured an offer for employment or training in the public service or by a person or persons approved by the Council for the purposes of complying with the additional requirements, be entitled to be registered under this section.

(2) A person registered under this section shall be deemed to be registered as far as is necessary to enable him to be employed or trained for the purposes stated in subsection (1) and while so employed or being trained, but not otherwise, may carry out the duties

and responsibilities, exercise the rights and enjoy the privileges of a registered professional surveyor.

(3) The registration of a person under this section shall cease to have effect upon being registered under section 9.

[PCh270s11]11. Temporary registration

(1) Where a person satisfies the Council—

(a) that he is not ordinarily resident in Mainland Tanzania;

(b) that he is or intended to be employed in Mainland Tanzania in the capacity of a professional surveyor for the express purpose of carrying out a specific assignment for which he has been engaged; and

(c) that he is, or immediately before entering Mainland Tanzania was, in practice as a professional surveyor and that he is eligible for registration under section 9, the Council may, if it is satisfied that his professional and general conduct renders him a fit and proper person to be registered, direct that he be registered under this section for the duration of the specific assignment or for such period as the Council may specify.

(2) The Council may require an applicant for registration under this section to appear before it or produce documents relating to his work or employment.

(3) Registration of a person under this section shall continue only while he is engaged on the specific assignment or for the period specified by the Council and on his ceasing to be so engaged or on the expiry of the period, his registration shall cease to have effect.

(4) In case of doubt as to the cessation of his engagement on the specific assignment or as to expiry of the period specified by the Council the decision of the Council thereon shall be final.

(5) A professional surveyor registered under this section shall, in relation to the duration of the specific assignment or the period specified by the Council and to things done in the course of such assignment, be treated as registered under section 9, but in relation to other things shall be treated as not so registered.

[PCh270s12]12. Designation upon registration

Every professional surveyor shall, so long as the validity of his registration subsists, be entitled to be addressed as, and to adopt and use the style and title—

(a) in the case of a professional surveyor registered under section 9, "Fully Registered Surveyor";

(b) in the case of a professional surveyor registered under section 10, "Provisionally Registered Surveyor";

(c) in the case of a professional surveyor registered under section 11, "Temporarily Registered Surveyor",

or such contraction of such style and title as the Council may approve.

[PCh270s13]13. Publication of registered particulars and lists of professional surveyors

(1) The Secretary shall cause to be published in the Gazette, as soon as may be practicable after registration, the particulars entered in the register in respect of each

professional surveyor and, subject to the directions of the Council, may cause to be so published any amendment or deletion of the particulars in the register.

(2) The Secretary shall cause to be published in the Gazette, at least once in each year, a list containing the particulars entered in the Register in respect of all professional surveyors remaining on the register at the close of the previous year.

[PCh270s14]14. Publication prima facie evidence of registration

(1) A publication under section 13 shall be prima facie evidence that persons named therein are registered under this Act, and the deletion from the register of the name of any person notified by such publication, or the absence of the name of any person from such publication, shall be prima facie evidence that such person is not so registered or that the validity of his registration has ceased to have effect.

(2) The register, lists and all copies thereof or extracts therefrom which purport to have been certified under the hand of the Secretary shall be receivable in all courts and tribunals or other bodies authorised to receive evidence as prima facie evidence of the facts stated therein.

[PCh270s15]15. Secretary may call for information

The Secretary shall, if instructed by the Council, request a registered professional surveyor, by a registered letter sent to his last known address, to furnish any such information relating to his practice as a professional surveyor as the Council may require.

PART III

APPEALS (ss 16-17)

[PCh270s16]16. Appeals Authority

(1) There is established an Appeals Authority which shall hear and determine appeals against decisions of the Council relating to registration of professional surveyors.

(2) The Appeals Authority shall consist of—

(a) a Chairman, who shall be appointed by the Minister;

(b) a legally qualified person holding office in the Attorney-General's Chambers, nominated in that behalf by the Attorney-General, who shall be the Vice-Chairman;

(c) not more than three other persons appointed by the Minister.

[PCh270s17]17. Appeals against decisions of Council

(1) Any person aggrieved by a decision of the Council in respect of any matter relating to his registration under this Act may appeal to the Appeals Authority against the decision of the Council and in any such appeal the Appeals Authority may give such directions in the matter as it thinks necessary to do justice to the parties concerned.

(2) Any decision or order contained in any direction given by the Appeals Authority under this section shall be final and binding upon all parties concerned.

(3) The Council 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 the appeal, the Council shall be deemed to be a party thereto, whether or not it appears at the hearing of the appeal.

(4) The Minister may, by regulations made under section 27, provide for the making of appeals to the Appeals Authority, the taking of further evidence, the fees to be paid, procedure to be followed and the manner of notifying the Council of an appeal.

PART IV

RESTRICTION ON ACTIVITIES OF SURVEYORS (ss 18-22)

[PCh270s18]18. Restriction on use of title and claim to qualification

(1) After the expiration of six months from the date of the commencement of this Act, or such further period as may be allowed by the Minister under subsection (2), any person who, not being a registered professional surveyor—

- (a) falsely pretends to be a professional surveyor; or
- (b) uses any of the styles and titles specified in section 12 or any other name, style, title or description implying, whether in itself or in the circumstances in which it is used, that he is a professional surveyor; or
- (c) holds himself out, whether directly or by implication, to be a professional surveyor or entitled to practise or carry on business as a professional surveyor, commits an offence and is liable upon conviction to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(2) The Minister may, by notice in the Gazette, extend the period of six months provided for in subsection (1) for a further period not exceeding six months, either generally or in respect of any particular person or category of persons.

[PCh270s19]19. Bodies of persons operating as professional surveyors

(1) No body of persons, whether corporate or unincorporate shall carry on business or practise as professional surveyors unless all its partners, members or shareholders, as the case may be, are registered professional surveyors.

(2) Where a shareholder, partner or member of a body of persons, whether corporate or unincorporate, carrying on business or practising as a professional surveyor dies, the body of persons may, notwithstanding the provisions of subsection (1), continue to carry on business or practise until such time as the administration of the estate of the deceased is completed, as if such legal representatives were registered professional surveyors.

(3) Nothing in this Act shall be construed as entitling any body of persons, whether corporate or unincorporate, to be registered as professional surveyors.

(4) Any body of persons which carries on business or practises as professional surveyors in contravention of this section commits an offence and is liable upon conviction to a fine not exceeding fifty thousand shillings.

[PCh270s20]20. Definition of "carrying on business" or "practising" as registered professional surveyor

For the purposes of this Act a person shall be deemed to be carrying on business or practising as professional surveyor if, for a fee, reward or other valuable consideration, he offers or renders his services as a professional surveyor to any person, whether under a contract of service, a contract for services or under any other arrangements.

[PCh270s21]21. Offences relating to registration

Any person who—

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

(b) fraudulently procures or attempts to procure, whether for himself or for any other person, registration as a professional surveyor; or

(c) knowingly or 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,

commits an offence and is liable upon conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

[PCh270s22]22. Consent of D.P.P

No person shall be prosecuted for an offence under this Act save with the consent of the Director of Public Prosecutions.

PART V

GENERAL PROVISIONS (ss 23-28)

[PCh270s23]23. Limitation of liability of members of Council, the Secretary, etc.

No matter or thing done by any member of the Council, the Secretary or any other person empowered to perform any function under this Act shall, if done in good faith in the execution or purported execution of his functions under this Act, render the member, the Secretary or that person personally liable for the matter or thing in question.

[PCh270s24]24. Annual report

The Council shall, at the end of each year, prepare a report of its activities during that year and submit it to the Minister.

[PCh270s25]25. Exemption

The Minister may, by order in the Gazette, exempt any person or category of persons from all or any of the provisions of this Act.

[PCh270s26]26. By-laws by Council

(1) The Council may, with the consent of the Minister, make by-laws for the better carrying out of its functions under this Act, and, without prejudice to the generality of the foregoing, may by such by-laws—

(a) prescribe diplomas which shall be recognised as entitling the holder to registration under this Act;

(b) prescribe ethics for the practice of the profession of land surveying and land economy;

(c) prescribe rules to regulate the standards of professional conduct of surveyors;

(d) provide for and regulate the manner of giving assistance to members of the public on matters touching upon, ancillary or incidental to, the practice of the profession of land surveying and land economy;

(e) prescribe anything which, in the opinion of the Council, is incidental or conducive to the exercise of its functions and powers under this Act.

(2) By-laws made by the Council under this section shall be published in the Gazette.

[PCh270s27]27. Regulations

The Minister may make regulations generally for the better carrying out of the purposes and provisions of this Act and, without prejudice to the generality of the foregoing, may in any such regulations—

(a) prescribe the forms, the manner, the procedure and the fees payable in respect of applications for registration or, as the case may be, restoration to the register of the name of a professional surveyor previously deleted from the register;

(b) prescribe, after consultation with the Council, the additional requirements relating to experience referred to in paragraph (b) of subsection (1) of section 9;

(c) prescribe the procedure for the conduct of the business of the Council and the procedure to be followed by the Council in any inquiry under this Act;

(d) provide for the appointment by the Council amongst its members of Committees and the co-option of persons thereto;

(e) provide for the duties of the Secretary;

(f) prescribe the grounds for cancellation or suspension of the registration of professional surveyors;

(g) make provisions relating to appeals to the Appeals Authority in respect of the matters specified in subsection 4 of section 17;

(h) prescribe anything which is permitted or required by this Act to be prescribed.

[PCh270s28]28. Policy guidelines for the practice of the profession of land surveying and land economy

(1) Subject to any written law for the time being in force relating to land surveying and land economy, the Minister may, by by directions published in the Gazette, require that the Council or any registered professional surveyor or category of registered professional surveyors in the exercise of its functions under this Act, or in carrying on the business of a professional surveyor the Council or, as the case may be, the surveyor or surveyors shall take into account such factors as the Minister may prescribe for the protection or advancement of the public interest.

(2) Without prejudice to the generality of subsection (1), the Minister may prescribe factors designed to promote—

(a) the evolution of a system of land surveying and land economy which accords with the policy pursued by the United Republic in matters relating to land utilisation and other transactions affecting land;

(b) the development of the practice of the profession of land surveying and land economy which is compatible with and conforms to the principles of self-reliance and the political, economic and social aspirations of the people of the United Republic.

(3) Directions issued by the Minister under this section shall have effect as if they were provisions contained in this Act.