

THE BUILT ENVIRONMENT PROFESSIONALS BILL, 2020

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**THE BUILT ENVIRONMENT PROFESSIONALS
BILL, 2020**

A Bill for

**AN ACT of Parliament to provide for the
regulation and development of the
practice of built environment
professionals and for connected
purposes**

ENACTED by the Parliament of Kenya, as
follows—

PART 1 — PRELIMINARY

Short title.

1. This Act may be cited as the Built Environment Professionals Act, 2020.

Interpretation.

2. In this Act—

“associations for the built environment profession” means

- a) the Architectural Association of Kenya;
- b) the Institute of Quantity Surveyors of Kenya;
- c) the Institute of Engineers of Kenya;
- d) the Kenya Institute of Planners;
- e) the Town and County Planning Association of Kenya;
- f) the Association of Construction Managers of Kenya;
- g) the Institute of Interior Designers of Kenya; and
- h) any other association recognised by the Council.

“board for the profession” means a board established under section 9;

“built environment” refers to an environment developed, built or made by people for human and animal activity and it includes natural environments changed by people for a purpose;

“built environment profession” means architecture, quantity survey, built environment engineering, land use and physical planning, valuation, landscape architecture, construction project management and interior design;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to public works;

“Council” means the Council for the Built Environment established in section 4;

“foreign professional” a professional who is not a citizen of Kenya;

“professional” means a person engaging in a built environment profession and includes a paraprofessional;

“paraprofessional” means a person qualified to engage in a built environment profession but whose qualifications do not reach degree level;

“Register” means the register maintained by the Registrar in accordance with section 21(2)(a) of this Act;

“registered person” means a person registered under this Act; and

“registrar” means the Registrar of Built Environment Professionals appointed under section 21.

Object of the Act.

3. The object of this Act is to—

- (a) promote and protect the interests of the public in the built environment;
- (b) promote and maintain a sustainable

- built and natural environment;
- (c) regulate built environment professionals;
- (d) promote human resource development in the built environment;
- (e) facilitate participation by built environment professionals in integrated development throughout the country;
- (f) promote appropriate standards of health, safety and environmental protection within the built environment;
- (g) promote sound governance of the built environment professions;
- (h) promote liaison in training of built environment professionals; and
- (i) ensure the uniform application of norms and guidelines in the built environment professions throughout the country.

PART II — THE COUNCIL FOR THE BUILT ENVIRONMENT

Establishment
of the Council
for the Built
Environment.

4. (1) There is established a council to be known as the Council for the Built Environment.

(2) The Council shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing or lending money; and
- (d) doing or performing such other things or acts for the proper performance of its functions under this Act which may be lawfully done or

performed by a body corporate.

Functions of the
Council for the Built
Environment.

- 5.** The functions of the Council shall be to—
- (a) promote and protect the interests of the public in the built environment;
 - (b) provide advice to the Cabinet Secretary and the Cabinet Secretaries responsible for physical planning and urban development on any matter falling within the scope of the built environment, including resource utilisation, socio-economic development, natural environment protection and public health and safety;
 - (c) recommend to the Cabinet Secretary and to Cabinet Secretaries responsible for physical planning and urban development national policies that impact the built environment, human resource development in relation to the built environment professions and the recognition of new professions;
 - (d) recommend to county governments policies that impact the built environment within respective counties;
 - (e) regulate built environment professionals;
 - (f) oversee the boards for the professions;
 - (g) facilitate the activities of the boards for the professions by making available secretariat services, logistical and administrative support;
 - (h) facilitate the establishment of mechanisms for built environment professionals to gain international recognition;
 - (i) ensure the consistent application of policy and standards by the various built environment professionals;
 - (j) carry out inquiries on matters pertaining to

the built environment professions;

- (k) coordinate with the Commission for University Education and the Technical and Vocational Educational and Training Authority, as the case may be, on the accreditation of education institutions and training programs;
- (l) in consultation with respective board for the profession, recognize and accredit local and foreign courses and programs for built environment professions;
- (m) carry out inquiries, and where appropriate, assimilate emerging professions in the built environment;
- (n) in consultation with respective board for the profession, determine the fees to be charged for the registration of built environment professionals;
- (o) hear and determine appeals against a decision made by a board for the profession;
- (p) in consultation with respective board for the profession, develop, maintain and enforce the code of ethics for each of the built environment professions;
- (q) receive and consolidate the annual reports of the boards for the professions;
- (r) carry out research on matters relating to the built environment; and
- (s) perform any other function necessary for the implementation of this Act.

Membership of
the Council for
the Built
Environment.

6. (1) The Council shall consist of—

- (a) the Principal Secretary responsible for matters related public works;
- (b) the Principal Secretary for the time being

responsible physical and land use planning;

- (c) one male and one female professional nominated by the Council of County Governors and appointed by the Cabinet Secretary;
- (d) one person nominated by the Architectural Association of Kenya;
- (e) one person nominated by the Institute of Quantity Surveyors of Kenya;
- (f) one person nominated by the Institute of Engineers of Kenya;
- (g) one person jointly nominated by the Kenya Institute of Planners and the Architectural Association of Kenya's Town Planners Chapter;
- (h) one person nominated by the Association of Construction Managers of Kenya;
- (i) one person nominated by the Institute of Interior Designers of Kenya;
- (j) one person practicing as a landscape architect nominated by the Architectural Association of Kenya; and
- (k) the chief executive officer, who shall be an *ex officio* member.

(2) The persons nominated under subsection (1)(d), (e), (f), (g), (h), (i), and (j) shall—

- a) be citizens of Kenya;
- b) meet the requirements of leadership and integrity set out in Chapter Six of the Constitution
- c) each hold a degree in a built environment profession from a university recognised in Kenya;
- d) have at least five years' experience in the relevant built environment profession;
- e) be members of the respective nominating bodies;

and

- f) be nominated through a competitive and transparent process and appointed by the Cabinet Secretary.

(3) The Council shall at its first sitting elect a chairperson from among members appointed under subsection (1)(d), (e), (f), (g), (h), (i), and (j).

(4) The members of the Council appointed under subsection (1) (c), (d), (e), (f), (g), (h), (i) and (j) shall serve for a term of three years but shall, subject to satisfactory performance, be eligible for re-nomination and subsequent re-appointment for one further term of three years.

(5) A decision of the Council shall not be invalid by reason of a vacancy in the Council.

Vacation of office of a member of the Council.

7. (1) The office of a member of the Council, other than an *ex officio* member, shall become vacant—

- (a) if the member resigns by a letter addressed to the chairperson of the Council;
- (b) on the written recommendation of the body which the member represents revoking the nomination of that member;
- (c) if the member is absent, without permission of the chairperson of the Council, from three consecutive meetings of which the member has received notice;
- (d) if the member is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (e) if the member is convicted of an offence that violates Chapter Six of the

Constitution;

- (f) if the Council, on the advice of a qualified medical professional, determines that the member is incapable of performing the member's duties by reason of mental or physical infirmity;
- (g) if the Council determines that the member failed to declare interest in any matter being considered or intended to be considered by the Council;
- (h) upon the member's adjudication or admission of bankruptcy; or
- (i) if the member dies.

(2) Before the removal of a member under subsection (1), the Council shall —

- (a) investigate the circumstances giving rise to the proposed removal;
- (b) where applicable, offer the member proposed to be removed an opportunity to be heard; and
- (c) after undertaking paragraphs (a) and (b), determine whether or not the office of the member is vacant.

Delegation by the Council.

8. The Council may, by resolution either generally or in any particular case, delegate to any of its committees or to any board for the profession, member, association for the built environment profession, officer, employee or agent of the Council, the exercise of any of the powers or the performance of any of the functions or duties of the Council under this Act or any other written law.

Conduct of the affairs of the Council.

9. (1) The business and affairs of the Council shall be as provided in the First Schedule.

(2) Except as provided for in the First Schedule, the Council may regulate its own procedure.

Establishment of Boards for the professions.

10. (1) There are established, in the Council, boards to be known as the Boards for the Professions for each of the following professions—

- a) architecture;
- b) quantity survey;
- c) built environment engineering;
- d) physical and land use planning;
- e) landscape architecture;
- f) construction management; and
- g) interior design.

(2) Each board for the profession shall consist of—

- a) a chairperson, who shall be the member of the Council nominated by the association for the built environment profession representing the relevant profession;
- b) one public officer nominated by the Cabinet Secretary;
- c) one person nominated by the Council of County Governors; and
- d) four persons nominated by the associations for the built environment profession representing each profession, of whom—
 - (i) two shall be of opposite gender;
 - (ii) at least one shall be from academia; and
 - (iii) at least one shall be a paraprofessional.

(3) The persons nominated under subsection (2)(c) and (d) shall—

- a) be persons who—
 - (i) hold a degree in the relevant built environment profession from a university recognised in Kenya; or
 - (ii) are qualified paraprofessionals;
- b) be persons who have at least five years' experience in the relevant built environment profession;
- c) represent the ethnic and regional diversity of Kenya;
- d) be members of the respective nominating bodies; and
- e) be nominated through a competitive and transparent process and appointed by the Cabinet Secretary.

(4) A decision of a board for the profession shall not be invalid by reason of a vacancy in the board.

(5) The members of a board for the profession appointed under subsection (2)(c) and (d) shall serve for a term of three years but shall, subject to satisfactory performance, be eligible for re-nomination and subsequent re-appointment for one further term of three years.

Functions of Boards
for the Professions.

11. Each board for the profession shall—

- (a) register and issue licences to qualified professionals as stipulated in the relevant law;
- (b) set standards for the relevant profession in management, marketing, environmental issues, safety, legal

- matters or any other relevant field;
- (c) issue, maintain and enforce the code of ethics for the relevant profession;
 - (d) take disciplinary measures in accordance with the provisions of this Act and any other relevant law;
 - (e) cooperate and collaborate with the Council as the Council performs its functions;
 - (f) where applicable, conduct professional examinations for the purposes of registration of professionals;
 - (g) plan, arrange, co-ordinate and oversee professional training and facilitate internship for relevant professionals;
 - (h) collaborate with training institutions and organisations, professional associations and other relevant bodies in matters relating to training and professional development of relevant professionals;
 - (i) develop and prescribe continuing professional development programmes for the relevant profession;
 - (j) hear and determine such disputes relating to the professional conduct or ethics of relevant professionals;
 - (k) perform any function delegated by the Council; and
 - (l) do anything incidental or conducive to the performance of any of the preceding functions.

Vacation of office of a member of a board for the profession.

12. (1) The office of a member of a board for the profession shall become vacant—

- (a) if the member resigns by a letter addressed to the chairperson of the

Council;

- (b) on the written recommendation of the body which the member represents revoking the nomination of that member;
- (c) if the member is absent, without permission of the chairperson of the relevant board for the profession, from three consecutive meetings of which the member has received notice;
- (d) if the member is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (e) if the member is convicted of an offence that violates Chapter Six of the Constitution;
- (f) if the Council, on the advice of a qualified medical doctor, determines that the member is incapable of performing the member's duties by reason of mental or physical infirmity;
- (g) if the relevant board for the profession determines that the member failed to declare interest in any matter being considered or intended to be considered by the board for the profession;
- (h) upon the member's adjudication or admission of bankruptcy; or
- (i) if the member dies.

(2) Before the removal of a member under subsection (1), the Council shall —

- (a) investigate the circumstances giving rise to the proposed removal;
- (b) where applicable, offer the member

proposed to be removed an opportunity to be heard; and

- (c) after undertaking paragraphs (a) and (b), determine whether or not the office of the member is vacant.

Conduct of the affairs of the boards for the professions.

13. (1) The business and affairs of the boards for the professions shall be as provided in the Second Schedule.

(2) Except as provided for in the Second Schedule, each board for the profession may regulate its own procedure.

Remuneration of members of the Council and members of the boards for the professions.

14. The Remuneration payable to members of the Council and members of the boards for the professions shall be determined by the Council in consultation with the Salaries and Remuneration Commission.

Chief Executive Officer.

15. (1) There shall be a chief executive officer of the Council who shall be appointed by the Council through a competitive recruitment process, on such terms and conditions of service as the Council may, in consultation with the Salaries and Remuneration Commission, determine.

(2) The chief executive officer shall be the secretary to the Council and shall, subject to the direction of the Council, be responsible for the day to day management of the activities of the Council.

(3) A person is qualified for appointment as the chief executive officer of the Council, if such person—

- (a) is a citizen of Kenya;
- (b) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution;
- (c) holds a degree in a built environment profession from a university recognised

in Kenya;

- (d) has at least five years' experience in the relevant built environment profession and
- (e) has relevant experience in management.

(4) The chief executive officer shall serve for a term of three years and shall, subject to satisfactory performance, be eligible for re-appointment for one further term of three years.

(5) The chief executive officer may—

(a) at any time resign from office by a notice in writing addressed to the Chairperson of the Council;

(b) be removed from office by the Council if the chief executive officer —

- (i) breaches a term or condition of the employment contract;
- (ii) is unable to perform the functions of the office by reason of a mental or physical infirmity;
- (iii) is convicted of an offence and sentenced to imprisonment for a term exceeding one month;
- (iv) is convicted of an offence that violates Chapter Six of the Constitution;
- (v) is adjudged or admits in writing to being bankrupt; or
- (vi) conducts himself or herself in a manner deemed to be inconsistent with this Act.

(6) Before the removal of the chief executive

officer under subsection (1)(b), the Council shall—

- (a) investigate the circumstances giving rise to the proposed removal;
- (b) accord the chief executive officer an opportunity to be heard; and
- (c) after complying with paragraphs (a) and (b), determine whether or not the chief executive officer is removed from office.

Staff of the Council.

16. The Council may employ such other officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Council under this Act, and upon such terms and conditions of service as it may, in consultation with the Salaries and Remuneration Commission, determine.

Funds of the Council.

17. The funds of the Council shall consist of—

- (a) revenue or fees collected for services rendered by the Council;
- (b) such monies as may be payable to the Council pursuant to this Act or any other written law;
- (c) such gifts as may be donated to the Council;
- (d) moneys borrowed by the Council with the approval of the Cabinet Secretary and subject to such limitations and conditions as may be imposed by the National Treasury; and
- (e) monies from any other source granted, donated or lent to the Council.

Accounts and Audit.

18. (1) The Council shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property

as the Cabinet Secretary may, from time to time, approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—

- (a) a balance sheet showing in detail the assets and liabilities of the Council; and
- (b) such other statements of accounts as the Cabinet Secretary may approve.

(2) The accounts of the Council shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act.

(3) The Council shall submit to the Auditor-General all books and accounts of the Council, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Council such information and explanation as the Auditor-General may consider necessary for the performance of her or his duties.

Annual report and publication.

19. (1) The chief executive officer shall cause to be prepared a report of the operations of the Council for every quarter and an annual report for every year.

(2) The chief executive officer shall submit the reports prepared under subsection (1) to the Council and to the Cabinet Secretary—

- (a) in the case of a quarterly report, within one month after the end of the quarter to which the report relates; or
- (b) in the case of an annual report, within four months of the end of the year to which the report relates.

(3) Each report shall contain, in respect of the period to which it relates a description of the activities of the Council.

(4) In addition to the requirements under subsection (3), each annual report shall include the financial statements of the Council for the year to which the report relates.

(5) The Cabinet Secretary shall, within fourteen days of receiving an annual report, transmit it to both Houses of Parliament or, if a House of Parliament is not sitting, within seven days of the commencement of its next sitting.

(6) The Council shall publish the annual report submitted under subsection (1)(b) in such manner as the Cabinet Secretary may specify.

Financial year of the Board.

20. The financial year of the Council shall be the period of twelve months ending on the thirtieth June in each financial year.

PART III — REGISTRATION OF BUILT ENVIRONMENT PROFESSIONALS

Registrar of Built Environment Professionals.

21. (1) There shall be a Registrar of Built Environment Professionals who shall be appointed by the Council through a competitive recruitment process, on such terms and conditions of service as the Council may, in consultation with the Salaries and Remuneration Commission, determine.

(2) The functions of the Registrar shall be to—

- (a) maintain a Register of professionals for each built environment profession in the manner prescribed by the Council;
- (b) receive applications for registration and, with the approval of the relevant board for the profession, register built environment professionals;
- (c) on the recommendation of the relevant board for the profession, suspend or revoke the registration of a professional;

and

- (d) perform such other functions as may from time to time be assigned by the Council, the chief executive officer or a board for the profession.

(3) A person is qualified for appointment as the Registrar if such person—

- (a) is a citizen of Kenya;
- (b) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution;
- (c) holds a degree in a built environment profession from a university recognised in Kenya;
- (d) has at least five years' experience in a built environment profession;
- (e) has relevant experience in management; and
- (f) is a member of an association for the built environment profession.

(4) The Registrar shall serve for a term of five years and shall not be eligible for re-appointment.

(5) The Registrar may—

- (a) at any time resign from office by a notice in writing addressed to the Chairperson of the Council;
- (b) be removed from office by the Council if the Registrar—
 - (i) breaches a term or condition of the employment contract;
 - (ii) is unable to perform the functions of the office by reason of a

mental or physical infirmity;

- (iii) is convicted of an offence and sentenced to imprisonment for a term exceeding one month without the option of a fine;
- (iv) is convicted of an offence that violates Chapter Six of the Constitution;
- (v) is adjudged or admits in writing to being bankrupt; or
- (vi) conducts herself or himself in a manner deemed to be inconsistent with this Act.

(6) Before the removal of the Registrar under subsection (1)(b), the Council shall—

- (a) investigate the circumstances giving rise to the proposed removal;
- (b) accord the Registrar an opportunity to be heard; and
- (c) after complying with paragraphs (a) and (b), determine whether or not the Registrar is removed from office.

Requirement for registration of built environment professionals.

22. (1) A person may, with the approval of the relevant board for the profession, be registered by the Registrar, if the person is —

Cap. 525.

- (a) an architect qualified in accordance with section 7 of the Architects and Quantity Surveyors Act;

Cap. 525.

- (b) a quantity surveyor qualified in accordance with section 8 of the Architects and Quantity Surveyors Act;

- (c) an engineer practicing in the built environment who is qualified in accordance with section 16 of the

- No. 43 of 2011. Engineers Act;
- (d) an engineering technologist or technician practicing in the built environment who is qualified in accordance with section 18 of the Engineering Technology Act;
- No. 23 of 2016. (e) a physical planner qualified in accordance with section 12 of the Physical Planners Registration Act;
- No. 3 of 1996. (f) a qualified landscape architect;
- (g) a qualified project construction manager;
- (h) a qualified interior designer; or
- (i) a qualified paraprofessional.

(2) A person shall not practice in any built environment profession contemplated under subsection (1) unless that person is registered by the Registrar in that profession.

(3) A person who contravenes subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding two years or to both.

Registration of foreign
built environment
professionals.

23. (1) A foreign professional shall not be registered under this Act unless that professional—

- (a) possesses qualifications equivalent to those listed under section 22(1) as recognized and accredited by the Council;
- (b) was practicing as a professional in the relevant category under section 22(1) prior to coming to Kenya;
- (c) holds a valid license from the country where the professional practiced the relevant profession prior to coming to Kenya; and
- (d) is a resident of Kenya with a valid

working permit.

(2) Despite subsection (1), a foreign professional may be registered as a temporary professional if that professional satisfies the relevant board for the profession that he or she—

- (a) is not ordinarily resident in Kenya;
- (b) intends to be present in Kenya in the capacity of a professional for the express purpose of carrying out specific work;
- (c) possesses qualifications equivalent to those listed under section 22(1) as recognized and accredited by the Council;
- (d) was practicing as a professional in the relevant category under section 22(1) prior to coming to Kenya; and
- (e) holds a valid license from the country where the professional ordinarily practices.

Application for registration.

24. (1) A person eligible to be registered as a professional under section 22(1), 23(1) or 23(2) may apply to the Registrar to be registered under this Act.

(2) An application made under subsection (1) shall be in the prescribed form and shall be accompanied by—

- (a) the prescribed fee;
- (b) certified copies of certificates and other documentation necessary to prove qualification for registration; and
- (c) any other documents as prescribed by the Council.

Registration

25. (1) The Registrar shall present every application for registration under section 24 to the relevant board for the profession for consideration at

the board's first meeting after receipt of the application.

(2) Where the relevant board for the profession determines that an applicant has complied with the provisions of this Act and is eligible for registration, the Registrar shall enter the name of that applicant in the Register.

(3) A board for the profession may require an applicant to appear before it when considering an application for registration.

(4) The Registrar shall communicate to an applicant the decision of a board for the profession on their application for registration, by email, within seven days from the date of the decision of the board.

(5) Each board for the profession shall issue a certificate of registration to each relevant applicant whose name is entered in the Register.

(6) The Council may cause to be issued other identification documents that are valid for a specified period to a person registered under this Act.

(7) A certificate of registration and other identification documents issued under this section shall remain the property of the Council.

(8) The Registrar may from time to time, if satisfied that a certificate of registration or any other document issued under this section is lost, mutilated or destroyed and upon payment of a prescribed fee, furnish a duplicate of the relevant document to the person to whom the original document had been issued.

Amendment of the Register.

26. (1) The Registrar may, from time to time and with the approval of the relevant board for the profession, make changes or corrections in the Register relating to any entry.

(2) The Registrar shall present every proposal for a change or correction in the Register to the relevant board for the profession for approval as soon as it is practical after receipt of a request from a registered professional.

(3) Any changes or corrections in the entries made under this section shall be made by the Registrar within seven days of the approval by the relevant board for the profession.

Consequences of conviction, professional misconduct or undertaking activities contrary to public interest.

27. (1) A board for the profession may, if a registered professional is convicted of an offence under this Act or if the board determines that a registered professional is guilty of professional misconduct or undertaking activities contrary to public interest,—

- (a) caution or censure the professional;
- (b) suspend the registration of the professional for such period as it may specify;
- (c) impose a fine not exceeding five hundred thousand shillings on that professional; or
- (d) direct the Registrar to remove the name of the professional from the Register.

(2) A board for the profession shall accord a registered professional an opportunity to be heard before undertaking the actions set out under subsection (1).

Removal of a name from the Register.

28. (1) A board for the profession may direct the Registrar to remove from the Register—

- (a) the name of any registered professional—
 - (i) who is deceased;
 - (ii) whom the board has, on the advice of

- a qualified medical professional, determined to be of unsound mind;
- (iii) convicted of an offence under this Act or any other law;
- (iv) who ceases to be eligible to be registered as a professional under section 22(1), 23(1) or 23(2);
- (v) who has failed to satisfy requirements for continuing professional development programme prescribed by the board;
- (vi) who has failed, within six months from the date that an inquiry was sent by the board or the Registrar by both email and prepaid registered mail to the address appearing in the Register against their name, to respond to the inquiry; or
- (vii) who requests that their name be removed from the Register; or
- (b) any entry which has been incorrectly or fraudulently entered.

(2) The relevant board for the profession shall accord a person an opportunity to be heard before removing their name or entry under subsection (1)(a)(ii), (1)(a)(iii), (1)(a)(iv), (1)(a)(v) and (1)(b).

(3) The Registrar shall remove the relevant name or entry from the Register within 24 hours from the decision of a board for the profession.

(4) The Registrar shall communicate to the relevant person, by both email and prepaid registered mail, the decision of a board for the profession to remove the person's name or entry from the register within seven days from the decision of the board.

(5) A person whose name has been removed from the Register shall, within fourteen days of receipt

of communication from the Registrar relaying the removal, return to the Registrar the certificate of registration and any other identification document issued to them courtesy of their registration.

(6) A person who contravenes subsection (5) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

(7) A person whose name had been removed from the Register may re-apply to be registered in accordance with section 24.

Publication of registration details.

29. (1) The Registrar shall, with the approval of the boards for the profession, cause to be published in the *Gazette* in January of every year particulars of all entries in the Register.

(2) A board for the profession may direct the Registrar to cause to be published in the *Gazette* amendments to the Register from time to time.

(3) A publication made under this section shall be *prima facie* evidence that a person named in the publication is registered under this Act and the absence of the name of a person from the publication shall similarly be *prima facie* evidence that such person is not so registered.

(4) A person whose details have not been entered or have been erroneously entered into the Register shall, within thirty days from the date of publication pursuant to subsection (1) or (2), notify the Registrar for the necessary correction to be made, upon which the Registrar shall, with the approval of the relevant board for the profession, publish in the *Gazette* the corrected particulars with respect to that person.

Inspection of register.

30. Any person may, during normal office

hours and upon payment of the prescribed fee, inspect the Register or any document relating to an entry in the Register, and may obtain from the Registrar a copy of an extract from the register or from any such document.

PART IV — LICENSING AND PRACTICE

Practising licence.

31. (1) A person shall not practice in a built environment profession unless that person has been issued with a practising licence by the relevant board for the profession and has complied with the requirements of this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding two years or to both.

(3) A person in breach of subsection (1) shall not be entitled to recover a charge for rendered built environment professional services.

Application for a practising licence.

32. (1) A person who intends to practice in a built environment profession shall make an application for a practising licence to the relevant board for the profession in the prescribed form.

(2) An application under subsection (1) shall be accompanied by the prescribed fee and any other document prescribed by the Council.

(3) A board for the profession shall, within twenty eight days from the receipt an application for a practising licence, issue to the applicant a practising licence in the prescribed form upon being satisfied that the applicant—

- (a) is registered in accordance with this Act;
- (b) has complied with the relevant continuing professional development standards for

that year as prescribed by the board; and

- (c) has complied with all other requirements prescribed by the board.

(4) Despite subsection (3), a board for the profession shall communicate to a relevant applicant its decision on the application for a practising licence, by email, within twenty eight days from the date of receipt of the application.

(5) A practising license issued under this section shall be valid from the day it is issued to the thirty first day of December of that same year.

(6) Despite subsection (5), a practising licence issued during the first month of any practising year shall be valid from the beginning of that month.

Suspension of a practising licence.

33. (1) A board for the profession may suspend a practising license issued under this Act where—

- (a) an offence under this Act in relation to the licensee is being investigated by relevant authorities;
- (b) allegations of misconduct have been investigated and proved against the licensee;
- (c) a false declaration was made in the application for the practising license; or
- (d) a licensee has contravened any provision of this Act.

(2) A board for the profession shall accord the relevant licensee an opportunity to be heard before suspending a practising licence.

(3) A board for the profession shall communicate to the relevant licensee, by both email and prepaid registered mail, its decision to suspend a practising licence within seven days from the decision of the board.

Cancellation of a practising licence.

34. (1) The relevant board for the profession shall cancel a practising licence where a licensee—

- (a) is convicted of an offence under this Act or the rules made under it; or
- (b) ceases to be qualified for the issuance of a licence under this Act.

(2) A board for the profession shall accord the relevant licensee an opportunity to be heard before canceling a licence.

(3) A board for the profession shall communicate to the relevant person, by both email and prepaid registered mail, its decision to cancel a practising licence within seven days from the decision of the board.

Register of practising licences.

35. (1) Each board for the profession shall maintain a register of practising licences issued, suspended or cancelled by the respective board.

(2) Each board for the profession shall cause to be published, on a website accessible to the public, up-to-date entries in the register maintained under subsection (1).

(3) Any person may, during normal office hours and upon payment of the prescribed fee, inspect the register maintained under subsection (1) and may obtain from the relevant board for the profession a copy of an extract from the register.

PART V — DISPUTE RESOLUTION

Complaints and disciplinary proceedings by boards for the profession.

36. (1) A person who is aggrieved by the services or conduct of a registered professional under this Act may make a written complaint to the relevant board for the profession in the prescribed form.

(2) A board for the profession shall, within twenty eight days from the receipt of a complaint

under subsection (1), hold an inquiry into the matter raised in the complaint.

(3) A board for the profession shall afford the professional accused in a complaint an opportunity to be heard, either in person or through a representative, before making a determination of the matter.

(4) A board for the profession may administer oaths or affirmations, enforce attendance of persons as witnesses or order production of books and documents as evidence when undertaking an inquiry under this section

(5) A person who fails to comply with summons, enforcement or orders issued under subsection (4) commits an offence.

(6) Where a board for the profession is satisfied that a professional registered under this Act is guilty of professional misconduct or undertaking activities contrary to public interest, the board shall proceed in accordance with section 27.

Appeals to the Council.

37. (1) A person aggrieved by a decision of a board for the profession under this Act may, within thirty days from the date of the decision, appeal to the Council against that decision.

(2) The Council shall, within ninety days from the date of receipt of an appeal under subsection (1), accord all relevant parties an opportunity to be heard and determine the appeal.

Appeals to the High Court.

38. A person aggrieved by a decision of the Council under this Act may, within thirty days from the date of the decision, appeal to the High Court against that decision.

PART VI — OFFENCES AND PENALTIES

False or fraudulent registration or

39. A person who willingly procures or

licensing.

attempts to procure registration or licensing under this Act by making, producing or causing to be made or produced any false or fraudulent representation commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding one year, or to both.

40. (1) A person who knowingly submits a professional document prepared by a person who is not licensed to prepare such a document commits an offence.

(2) In this section, the term “professional document” means a document that is required, by this Act or any other law, to be prepared by a registered and licensed built environment professional.

Prohibition of the use of professional titles and names.

41. (1) A professional registered under this Act may, in accordance with the status and category of registration, use either of the terms “architect”, “quantity surveyor”, “built environment engineer”, “physical planner”, “landscape architect”, “construction project manager”, “interior designer” or “technician” with respect to any of the built environment professions.

(2) A person who is not registered under this Act shall not—

- (a) take or use the style, form or title of architect, quantity surveyor, built environment engineer, physical planner, landscape architect, construction project manager, interior designer or technician with respect to a built environment profession in describing their occupation or business;
- (b) take or use any other name, style, title or description that implies that the person is an architect, quantity surveyor, built environment engineer, physical planner,

landscape architect, construction project manager, interior designer or technician with respect to a built environment profession; or

- (c) display or use any sign, card, prescribed stamp or other device representing or implying that the person is an architect, quantity surveyor, built environment engineer, physical planner, landscape architect, construction project manager, interior designer or technician with respect to a built environment profession;

(3) A person who contravenes subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding one year, or to both.

Prohibition of employment of unregistered persons.

42. (1) A person shall not employ or continue to employ any person to offer professional services or works if that person is not registered under this Act.

(2) A person shall not take up or continue to be engaged in any employment as a professional unless that person is registered under this Act.

(3) A person who contravenes this section commits an offence.

General penalty.

43. A person who is convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding six months, or to both

PART VII — MISCELLANEOUS PROVISIONS

Professional misconduct.

44. A person registered under this Act shall be guilty of professional misconduct if that person—

- (a) fails to adhere to the standards of the

profession set by the relevant board for the profession;

- (b) commits gross negligence in the performance of professional duties; or
- (c) allows another person to practise in their name.

Limitation from liability.

45. (1) A member of the Council, a member of a board for the profession or any officer, employee or agent of the Council shall not be held personally liable for any action, claim or demand with respect to an action taken in good faith in the exercise of powers or performance of duties under this Act.

(2) The provisions of subsection (1) shall not relieve the Council from liability to pay lawful compensation or damages to any person for injury to the person or property.

Power to make regulations.

46. (1) The Cabinet Secretary may, in consultation with the Council, make Regulations—

- (a) prescribing anything that may be prescribed by the Cabinet Secretary under this Act; and
- (b) generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may, in consultation with the Council, make Regulations to provide for—

- (a) the forms to be used in relation to this Act; and
- (b) enforcement of the attendance of witnesses and the production of books and documents at an inquiry by a board for the profession.

PART VIII — TRANSITIONAL PROVISIONS

Transfer of Staff.

47. (1) Upon the coming into effect of this Act, members of staff employed by the Board of Registration of Architects and Quantity Surveyors and the Physical Planners Registration Board shall—

- (a) be deemed to be members of staff of the Council in their respective capacities;
- (b) retain any rights accrued or accruing to them as such staff or contributors;
- (c) be at liberty to continue to contribute to any superannuation scheme to which they were contributors;
- (d) be entitled to receive any deferred or extended leave as if they have continued to be such staff of the Council during their service with the respective board;
- (e) be entitled to receive any payment, pension or gratuity as if they have continued to be such staff of the Council during their service with the respective board; and
- (f) be deemed to be employees of the Council for the purposes of any law under which those rights accrued or were accruing, under which they continue to contribute or by which that entitlement is conferred.

Cap. 525.

No. 3 of 1996

(2) Despite the provisions of subsection (1), the term of a Registrar appointed under section 6 (1) of the Architects and Quantity Surveyors Act and the term of a Registrar appointed under section 5 of the Physical Planners Registration Act shall end upon the coming into effect of this Act

Transfer of assets and liabilities.

48. All property, except such property as the Cabinet Secretary may specify in writing, which immediately before the commencement of this Act was vested in the National Executive for use by the Board of Registration of Architects and Quantity Surveyors and the Physical Planners Registration

Board shall, on the date of the coming into effect of this Act, vest in the Council subject to all interests, liabilities, charges, obligations and trusts affecting that property.

Pending proceedings and claims.

49. All legal proceedings and claims pending in respect of actions and activities to which this Act apply shall be continued or enforced by or against the Council in the same manner as they would have been continued or enforced by or against the Board of Registration of Architects and Quantity Surveyors or the Physical Planners Registration Board had this Act not been enacted.

PART IX — CONSEQUENTIAL AMENDMENTS

Amendment of section 2 of Cap. 525.

50. The Architects and Quantity Surveyors Act is amended by deleting section 2 and substituting therefor the following new section—

Interpretation. **2** In this Act,—

“approved” means approved by the Council; and

“board for the profession” has the meaning assigned to it under section 2 of the Built Environment Professionals Act.

Amendment of section 3 of Cap. 525.

51. The Architects and Quantity Surveyors Act is amended by deleting section 3.

Amendment of section 4 of Cap. 525.

52. The Architects and Quantity Surveyors Act is amended by deleting section 4.

Amendment of section 5 of Cap. 525.

53. The Architects and Quantity Surveyors Act is amended by deleting section 5.

Amendment of section 6 of Cap. 525.

54. The Architects and Quantity Surveyors Act is amended by deleting section 6.

Amendment of section 7 of Cap. 525.

55. Section 7 of the Architects and Quantity Surveyors Act is amended—

- (a) in paragraph (b) by deleting the word “Board” appearing immediately after the words “satisfaction of the” in subparagraph (i) and substituting therefor the words “relevant board for the profession”;
- (b) in paragraph (c) by—
 - (i) deleting the word “Board” appearing immediately after the words “satisfaction of the” and substituting therefor the words “relevant board for the profession”; and
 - (ii) deleting the word “Board” appearing immediately after the words “has satisfied the” and substituting therefor the words “relevant board for the profession”.

Amendment of section
8 of Cap. 525.

56. Section 8 of the Architects and Quantity Surveyors Act is amended in paragraph (c) by —

- (a) deleting the word “Board” appearing immediately after the words “satisfaction of the” and substituting therefor the words “relevant board for the profession”; and
- (b) deleting the word “Board” appearing immediately after the words “has satisfied the” and substituting therefor the words “relevant board for the profession”.

Amendment of section
9 of Cap. 525.

57. The Architects and Quantity Surveyors Act is amended by deleting section 9 and substituting therefor the following new section—

Qualifying examinations. **9** The examinations referred to in sections 7 and 8 shall be conducted by the relevant board for the profession.

Amendment of section
10 of Cap. 525.

58. The Architects and Quantity Surveyors Act is amended by deleting section 10.

- Amendment of section 11 of Cap. 525. **59.** The Architects and Quantity Surveyors Act is amended by deleting section 11.
- Amendment of section 12 of Cap. 525. **60.** The Architects and Quantity Surveyors Act is amended by deleting section 12.
- Amendment of section 13 of Cap. 525. **61.** The Architects and Quantity Surveyors Act is amended by deleting section 13.
- Amendment of section 13A of Cap. 525. **62.** The Architects and Quantity Surveyors Act is amended by deleting section 13A.
- Amendment of section 14 of Cap. 525. **63.** The Architects and Quantity Surveyors Act is amended by deleting section 14.
- Amendment of section 2 of No. 3 of 1996. **64.** The Physical Planners Registration Act is amended by deleting section 2 and substituting therefor the following new section—
Interpretation. **2** In this Act,—
“board for the profession” has the meaning assigned to it under section 2 of the Built Environment Professionals Act;
“Council” has the meaning assigned to it under section 2 of the Built Environment Professionals Act;
“Register” has the meaning assigned to it under section 2 of the Built Environment Professionals Act.
- Amendment of section 3 of No. 3 of 1996. **65.** The Physical Planners Registration Act is amended by deleting section 3.
- Amendment of section 4 of No. 3 of 1996. **66.** The Physical Planners Registration Act is amended by deleting section 4.
- Amendment of section 5 of No. 3 of 1996. **67.** The Physical Planners Registration Act is amended by deleting section 5.
- Amendment of section **68.** The Physical Planners Registration Act is

- 6 of No. 3 of 1996. amended by deleting section 6.
- Amendment of section 7 of No. 3 of 1996. **69.** The Physical Planners Registration Act is amended by deleting section 7.
- Amendment of section 8 of No. 3 of 1996. **70.** The Physical Planners Registration Act is amended by deleting section 8.
- Amendment of section 9 of No. 3 of 1996. **71.** The Physical Planners Registration Act is amended by deleting section 9.
- Amendment of section 10 of No. 3 of 1996. **72.** The Physical Planners Registration Act is amended by deleting section 10.
- Amendment of section 11 of No. 3 of 1996. **73.** The Physical Planners Registration Act is amended by deleting section 11.
- Amendment of section 12 of No. 3 of 1996. **74.** Section 7 of the Architects and Quantity Surveyors Act is amended—
- (a) in subsection (1) by—
 - (i) deleting the introductory clause and substituting therefor the following new introductory clause—
 - (1) Subject to the Built Environment Professionals Act, a person shall be entitled, on making an application to the relevant board for the profession in the prescribed form and on the payment of the prescribed fee, to be registered and to have his name entered in the Register if—
 - (ii) deleting paragraph (a) and substituting therefor the following new paragraph—
 - (a) he is the holder of a bachelor's or postgraduate degree in urban or regional planning from any university recognized by the Council and has passed an

examination prescribed by the relevant board for the profession;

- (b) in subsection (2) by deleting the word “Board” appearing immediately after the words “prescribed by the” and substituting therefor the words “relevant board for the profession”; and
- (c) by deleting subsection (3) and substituting therefor the following new subsection—

(3) Despite an applicant qualifying under subsection (1), the relevant board for the profession may require that applicant to satisfy it that his professional and general conduct has been such that, in the opinion of the board, he is a fit and proper person to be registered under the Built Environment Professionals Act and the board may direct the Registrar to postpone the registration of the applicant until it is so satisfied.

Amendment of section 13 of No. 3 of 1996.

75. The Physical Planners Registration Act is amended by deleting section 13.

Amendment of section 14 of No. 3 of 1996.

76. The Physical Planners Registration Act is amended by deleting section 14.

Amendment of section 15 of No. 3 of 1996.

77. The Physical Planners Registration Act is amended by deleting section 15.

Amendment of section 16 of No. 3 of 1996.

78. The Physical Planners Registration Act is amended by deleting section 16.

Amendment of section 17 of No. 3 of 1996.

79. The Physical Planners Registration Act is amended by deleting section 17.

Amendment of section 18 of No. 3 of 1996.

80. The Physical Planners Registration Act is amended by deleting section 18.

Amendment of section

81. The Physical Planners Registration Act is

- 19 of No. 3 of 1996. amended by deleting section 19.
- Amendment of section 20 of No. 3 of 1996. **82.** The Physical Planners Registration Act is amended by deleting section 20.
- Amendment of section 21 of No. 3 of 1996. **83.** The Physical Planners Registration Act is amended by deleting section 21.
- Amendment of section 22 of No. 3 of 1996. **84.** The Physical Planners Registration Act is amended by deleting section 22.
- Amendment of section 23 of No. 3 of 1996. **85.** The Physical Planners Registration Act is amended by deleting section 23.
- Amendment of section 24 of No. 3 of 1996. **86.** The Physical Planners Registration Act is amended by deleting section 24.
- Amendment of section 25 of No. 3 of 1996. **87.** The Physical Planners Registration Act is amended by deleting section 25.

FIRST SCHEDULE (s. 9)

**PROVISIONS FOR THE MEETINGS AND
PROCEDURE OF THE COUNCIL**

1. (1) The Council shall meet at the Council's registered offices or any other designated venue and the meetings shall be convened by the Chairperson. Meetings.

(2) The Council shall have at least four meetings in every financial year and not more than four months shall elapse between one meeting and the next meeting.

(3) Unless two thirds of the members otherwise agree, at least fourteen days' notice in writing of a meeting shall be given to every member.

(4) A meeting shall be presided over by the Chairperson and in the absence of the Chairperson, the members present shall appoint one of their number to preside at the meeting.

(5) The chairperson shall, on the written application of two-thirds of members, convene a special meeting of the Council.

(6) The Council may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Council.

2. (1) The Council may establish committees which shall consist of such number of members as it may deem appropriate to perform such functions and duties as the Council may determine. Committees.

(2) The Council shall appoint chairpersons of committees established under subsection (1) from among its members.

(3) The Council may, where it considers appropriate, co-opt persons from outside the Council by virtue of their knowledge or expertise in specific areas to be members of its committees.

(4) All decisions by the committees established under subparagraph (1) shall be ratified by the Council.

3. (1) Subject to subparagraph (2), the quorum of the meeting shall be two thirds of the members. Quorum.

(2) Where there is a vacancy in the Council, the

quorum of the meeting shall not be less than five members.

(3) A decision of the Council shall not be invalid by reason only of a vacancy among the members thereof.

4. (1) If a person has a personal or fiduciary interest in any matter before the Council, and is present at a meeting of the Council or any committee at which such a matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.

Conflict of interest.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) No member or staff of the Council shall transact any business or trade with the Council

5. A question before the Council shall be decided by a majority of the members and the Chairperson shall have a casting vote.

Voting.

6. The Council shall—

- (a) determine rules of procedure for the conduct of its business; and
- (b) keep minutes of its proceedings and decisions.

Rules of procedure and minutes.

SECOND SCHEDULE (s. 13)

**PROVISIONS FOR THE MEETINGS AND
PROCEDURE OF BOARDS FOR THE BUILT
ENVIRONMENT PROFESSION**

1. (1) Each board for the profession shall meet at the venue designated by the Council and the meetings shall be convened by the chairperson. Meetings.

(2) A board for the profession shall have at least four meetings in every financial year and not more than four months shall elapse between one meeting and the next meeting.

(3) Unless two thirds of the members otherwise agree, at least fourteen days' notice in writing of a meeting shall be given to every member.

(4) A meeting shall be presided over by the chairperson and in the absence of the chairperson, the members present shall appoint one of their number to preside at the meeting.

(5) The chairperson shall, on the written application of two-thirds of members, convene a special meeting of the respective board for the profession.

(6) A board for the profession may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the board.

2. (1) Subject to subparagraph (2), the quorum of a meeting shall be two thirds of the members. Quorum.

(2) Where there is a vacancy in a board for the profession, the quorum of the meeting shall not be less than three members.

(3) A decision of a board for the profession shall not be invalid by reason only of a vacancy among the members thereof.

3. (1) If a person has a personal or fiduciary interest in any matter before a board for the profession, and is present at a meeting of the board at which such a matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or Conflict of interest.

discussion of, or vote on any question touching such matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

5. A question before a board for the profession shall be decided by a majority of the members and the chairperson shall have a casting vote. Voting.

6. A board for the profession shall—

- (a) determine rules of procedure for the conduct of its business; and
- (b) keep minutes of its proceedings and decisions.

Rules of procedure and minutes.

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