

THE ENGINEERING INSTITUTION OF ZAMBIA ACT, 2010

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FIRST SCHEDULE

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GOVERNMENT OF ZAMBIA

ACT

No. 17 of 2010

Date of Assent: 13th April, 2010

An Act to continue the existence of the Engineering Institution of Zambia; provide for the registration of engineering professionals, engineering units and engineering organisations and regulate their professional conduct; repeal the Engineering Institution of Zambia Act, 1992; and provide for matters connected with, or incidental to, the foregoing.

[16th April, 2010

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Engineering Institution of Zambia Act, 2010, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title
and
commencement

2. In this Act, unless the context otherwise requires —

Interpretation

“allied discipline” means a discipline determined as such by the Council;

“appointed date” means such date as the Minister may appoint under section *one*;

“Association of Consulting Engineers of Zambia” means the Association representing consulting engineers;

“Board” means the Engineering Registration Board established under section *twelve*;

“certificate of registration” means the certificate of registration issued under section *seventeen*;

- “ Code of Ethics ” means the code of professional conduct and ethics adopted and published by the Institution;
- “ constitution ” means the constitution of the Institution adopted in accordance with section *five*;
- “ Council ” means the Engineering Council of the Institution constituted under section *eight*;
- “ craftsperson ” means a person registered as such under subsection (2) of section *seventeen*;
- “ Disciplinary Committee ” means the Committee constituted under section *forty-eight*;
- “ engineer ” means a person with special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience;
- “ engineering ” means the application of mathematical, scientific and technological principles, with reference to economics, society and the environment, to develop solutions to technical problems, or create products, facilities and structures that improve the quality of life;
- “ engineering organisation ” means a statutory corporation, a company, a firm, a partnership, an association or other body, corporate or uncorporate, that provides a service through the application of scientific or mathematical laws and principles, in the design, development, utilisation, maintenance or disposal of machines, materials, instruments, structures, processes and operational systems, or whose function involves the planning, designing, processing and delivery of engineering products and services;
- “ engineering professional ” means an engineer, technologist, technician or craftsperson, and “engineering profession” shall be construed accordingly;
- “ engineering unit ” means an operational entity of a non engineering organisation that provides engineering services internally, in support of the organisation’s core operations or activities;
- “ Fellow ” means a person registered as such under the provisions of the constitution of the Institution;

- “ Institution ” means the Engineering Institution of Zambia referred to in section *three*;
- “ inspector ” means a person appointed as an inspector under section *eleven*;
- “ Member ” means a person registered as a Member of the Institution in accordance with the provisions of the constitution of the Institution, and “membership” shall be construed accordingly;
- “practising certificate” means a certificate issued under sub section (2) of section *twenty six*;
- “ President ” means the person elected President of the Institution pursuant to section *six*;
- “ professional misconduct ” has the meaning assigned to it under section *forty six*;
- “ Register ” means the Register referred to under section *thirty seven*;
- “ Registrar ” means the person appointed as Registrar under section *ten*;
- “ repealed Act ” means the Engineering Institution of Zambia Act, 1992; Cap. 432
- “ technician ” means a person registered as such under subsection (2) of section *seventeen*;
- “ technologist ” means a person registered as such under subsection (2) of section *seventeen*; and
- “ Vice President ” means the person elected Vice President of the Institution pursuant to section *six*.

PART II

THE ENGINEERING INSTITUTION OF ZAMBIA

3. (1) The Engineering Institution of Zambia established under the repealed Act shall continue to exist as if established under this Act.

(2) The Institution shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and shall, subject to the provisions of this Act, have power to do all such acts and things as a body corporate may, by law, do or perform.

Functions of
Institution

(3) The provisions of the First Schedule apply to the Institution.

4. (1) The functions of the Institution are to—

- (a) register engineering professionals, engineering organisations and engineering units and regulate their professional conduct;
- (b) register students of engineering;
- (c) develop, promote, maintain and improve appropriate standards of qualification in the engineering profession;
- (d) develop, promote and enforce internationally comparable engineering practice standards in Zambia;
- (e) investigate allegations of professional misconduct and impose such sanctions as may be necessary;
- (f) advise the Government on matters relating to the engineering profession;
- (g) promote the general advancement of science, engineering, technological and allied disciplines for the improvement of the quality of life;
- (h) maintain and improve the standards of conduct and learning of science, engineering and allied professions in Zambia;
- (i) facilitate the acquisition of knowledge by engineering professionals through the establishment of technical libraries, and the provision of monetary grants, books, apparatus and any other facilities necessary to achieve this end;
- (j) hold meetings of the Institution for the reading and discussion of papers for professional interest, to make awards to authors of papers of special merit and to arrange for other activities of interest or benefit to engineering professionals;
- (k) raise the character and status of the engineering profession and allied disciplines, to promote honourable and good practice and increase the confidence of the community in those persons practising in the engineering profession and allied disciplines;
- (l) promote alternative dispute resolution mechanisms and to serve as an arbitral institution for disputes of an engineering nature;

- (m) in consultation with the Ministry responsible for education and the Technical Education Vocational and Entrepreneurship Training Authority, accredit universities, technical colleges, institutions and programmes of instruction leading to the award of qualifications of membership classes;
- (n) investigate and monitor national emergencies or disasters or any other matter of public concern caused by, or likely to be caused by, an engineering product or service and recommend appropriate preventive, rehabilitative or other measures;
- (o) represent, protect and assist engineering professionals with regard to their conditions of practice, remuneration or otherwise; and
- (p) do all such other things as are necessary or incidental to the performance of its functions under this Act.

(2) The Institution may—

- (a) determine and levy fees that the Institution considers necessary to finance its activities under this Act;
- (b) determine the fees payable for an inspection conducted for the purposes of this Act;
- (c) determine fees for the accreditation of local and foreign training institutions and qualifications; and
- (d) determine what portion of any fee is payable in respect of any part of a year and the date on which the fee or portion thereof is payable.

5. (1) The Institution shall, by a vote of at least two thirds of the Members voting at a general meeting of the Institution, adopt a constitution and may, in the like manner, amend it.

Constitution
of Institution

(2) Subject to this Act, the constitution shall regulate the conduct of the affairs of the Institution.

(3) Subject to subsection (2), the constitution shall provide for the following matters:

- (a) the meetings of the Institution, including the delivery and sufficiency of notices of the meetings, the quorum, voting, adjournment and other matters of procedure or conduct of the meetings;

- (b) the election, qualifications and tenure of the President and Vice President;
- (c) the composition, functions, powers and procedures of the committees of the Institution;
- (d) the establishment, powers and functions of the branches, sections and regions of the Institution;
- (e) the classes of membership and their rights, privileges and obligations; and
- (f) any other matter as the membership may determine.

President
and Vice
Presidents of
Institution

6. The Members shall elect the President and the Vice Presidents of the Institution in accordance with the constitution.

Meetings of
Institution

7. (1) Subject to this Act, the Institution may regulate its own procedure.

(2) The meetings of the Institution shall be conducted in accordance with the provisions of the constitution of the Institution.

(3) The validity of any proceedings, act or decision of the Institution shall not be affected by any person's absence from any meeting of the Institution or by reason that a person not entitled to do so took part in the proceedings.

PART III

THE ENGINEERING COUNCIL OF THE INSTITUTION

Constitution
of Engineering
Council

8. (1) There is hereby constituted the Engineering Council of the Institution which shall be responsible for the management and control of the affairs of the Institution.

(2) The Council shall be elected in accordance with the provisions of the constitution of the Institution.

(3) The Council shall consist of the following members:

- (a) a President, who is a Fellow and previously served as a member of the Council;
- (b) a Vice President, who is a Fellow and shall be responsible for policy direction, public relations and matters of national development;
- (c) a Vice President, who is a Fellow and shall be responsible for finance and administration;
- (d) a Vice President who is a Fellow and shall be responsible

for matters related to membership and continuous professional development;

- (e) the immediate past President of the Council;
- (f) a representative of each of the engineering professionals;
- (g) a representative of the engineering organisations, nominated by the engineering organisations;
- (h) a representative of the engineering units, nominated by the engineering units;
- (i) two representatives of engineering students, one of which shall be male and the other female;
- (j) the Chairperson of the Board; and
- (k) the Chairpersons of the existing regions of the Institution.

(4) A person shall not be qualified to be elected or nominated as a member of the Council, if the person—

- (a) has committed any professional misconduct within a period of five years preceding the election or nomination;
- (b) is in lawful custody or the person's freedom of movement is restricted under any law in force in, or outside, Zambia on the date of the election or nomination;
- (c) has not been on the Register for at least three years preceding the election or nomination; or
- (d) has been declared to be of unsound mind under any law.

(5) A member shall, subject to the other provisions of this Act, hold office for a term of two years and may be re elected for a further term of two years.

(6) Upon the expiration of the term for which a member is elected or nominated, the member shall continue to hold office until another member is elected or nominated, but in no case shall any extension of the period exceed three months.

(7) The office of a member shall be vacated —

- (a) upon the member's death;
- (b) if the member is adjudged bankrupt;
- (c) if the member is absent from three consecutive meetings of the Council, of which the member has had notice, without the prior approval of the Council;

- (d) upon the expiry of one month's notice of the member's intention to resign, given by the member in writing to the Council;
- (e) if the member becomes mentally or physically incapable of performing duties as a member;
- (f) if the member is found guilty of professional misconduct;
- (g) if the member's registration is cancelled; or
- (h) if the member is convicted of an offence under this Act or any other law.

(8) Where there is a vacancy in the membership of the Council before the expiry of the term of office, the Council shall appoint another person to replace the member who vacates office but that person shall only hold office for the remainder of the term.

(9) The President and the Vice Presidents of the Council shall not hold a position on the Board.

(10) The provisions of the First Schedule apply to the Council.

Functions of
Council

9. The functions of the Council are to—

- (a) perform all the functions of the Institution;
- (b) promote an understanding of professional ethics amongst the engineering professionals;
- (c) ensure that the rules and guidelines for professional ethics developed by the Institution are responsive to the expectations of business institutions, the public and those who rely on engineering work;
- (d) participate in the development of international engineering practice standard setting;
- (e) make recommendations affecting, or relating to, the engineering profession to the general meeting of the Institution;
- (f) register students of engineering;
- (g) promote continuing professional development among engineering professionals; and
- (h) do all such things and acts as the Institution or Council may do under this Act.

Registrar

10. (1) The Council shall appoint a Registrar who shall be the chief executive officer of the Institution and Secretary to the Council, on such terms and conditions as the Council may determine.

(2) The Council shall appoint a Deputy Registrar who shall assist the Registrar in performing the Registrar's duties under this Act.

(3) The Registrar and Deputy Registrar shall be registered engineers.

(4) The Registrar shall be the Secretary to the Board and to all committees thereof.

(5) The Council may appoint on such terms and conditions as it may determine, such other staff as it considers necessary for the performance of its functions under this Act.

11. (1) The Council shall appoint inspectors to ensure compliance with this Act. Inspectors

(2) The Council shall provide an inspector with a certificate of appointment which shall be *prima facie* evidence of the inspector's appointment as such.

(3) An inspector shall, in performing any function under this Act—

(a) be in possession of the certificate of appointment referred to under subsection (2); and

(b) show the certificate of appointment to any person who requests to see the certificate, is subject to an investigation or an employee of that person.

(4) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time, without prior notice, and on the authority of a warrant, enter any premises that the inspector has reasonable grounds to believe is used by an engineering professional, engineering unit or engineering organisation for the commission of an offence or contrary to the provisions of this Act, and—

(a) search the premises;

(b) search any person on the premises if there are reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on an investigation:

Provided that a person shall only be searched by a person of the same sex;

(c) take extracts from, or make copies of any book, document or record that is on the premises and that has a bearing on an investigation;

- (d) demand the production of, and inspect, relevant certificates; and
 - (e) make such enquiries as may be necessary to ascertain whether the provisions of this Act or other law on which an investigation is based, have been complied with.
- (5) A person who—
- (a) delays or obstructs an inspector in the performance of the inspector's functions under this Act;
 - (b) refuses to give an inspector such reasonable assistance as the inspector may require for the purpose of exercising the inspector's functions; or
 - (c) gives an inspector false or misleading information in answer to an inquiry made by the inspector;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(6) An inspector shall furnish the Council with a written report and any other information relating to an inspection.

PART IV

THE ENGINEERING REGISTRATION BOARD

Establishment
of Engineering
Registration
Board

12. (1) There is hereby established the Engineering Registration Board.

(2) The Minister may, by statutory instrument, make regulations to provide for the membership, tenure of office, procedure of meetings and quorum of the Board.

(3) The Board may, for purposes of performing its functions under this Act, establish such other committees as the Board may determine and may delegate to the committees any of its functions as it considers necessary.

(4) Subject to any specific or general direction of the Board, a committee established under this section may regulate its own procedure.

Functions of
Board

13. Except as otherwise provided in this Act, the function of the Board shall be to perform all the registration functions of the Institution.

PART V

MEMBERSHIP REGISTRATION AND PRACTISING CERTIFICATE

14. (1) There shall be such classes of membership as shall be provided for in the constitution of the Institution. Classes of membership

(2) Each class of membership shall have such rights, privileges and obligations as may be prescribed in the constitution of the Institution.

(3) A person may apply to the Institution for registration as a Member in accordance with the provisions of the constitution of the Institution.

15. (1) A person shall not practise as an engineering professional, unless that person is registered as a Member, under the constitution of the Institution, and as an engineering professional, in accordance with this Act. Prohibition of person practising without registration

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding ten years, or to both.

16. (1) A person shall apply for registration as an engineering professional to the Board in the prescribed manner and form upon payment of the prescribed fee. Application for registration

(2) The Board may determine different fees for different classes of engineering professionals.

(3) The Board may, within thirty days of receipt of an application under subsection (1), grant or reject the application.

(4) The Board shall, where it rejects an application under subsection (3), inform the applicant accordingly and give the reasons therefor.

17. (1) Upon receipt of an application under section *sixteen*, the Board shall issue the applicant with a certificate of registration if the applicant— Registration of engineering professionals

(a) is registered as a Member in accordance with the provisions of the constitution of the Institution;

(b) possesses such knowledge, training and experience as may be prescribed;

(c) holds a qualification from a training institution recognised by the Institution;

- (d) is resident in Zambia, or has an established office or appointment in Zambia in an engineering profession or allied discipline;
- (e) is of good character and good professional standing; and
- (f) meets such other requirements as the Institution may determine.

(2) The Board shall register an engineering professional as—

- (a) an engineer;
- (b) a technologist;
- (c) a technician;
- (d) a craftsperson; or
- (e) any other engineering professional as the Minister may, on the recommendation of the Institution, prescribe.

(3) The Minister may, by statutory instrument, on the recommendation of the Institution, prescribe the qualifications for registration of a person as an engineering professional.

Prohibition of engineering organisation or engineering unit practising without registration

18. (1) An engineering organisation or engineering unit shall not provide any engineering service or product, unless that engineering organisation or engineering unit is registered in accordance with this Act.

(2) An engineering organisation or engineering unit that contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding nine hundred thousand penalty units.

Application for registration of engineering organisation or engineering unit

19. (1) An engineering organisation, an engineering unit or any other body registered under any law to provide an engineering service or product, shall apply to the Board for registration in the prescribed manner and form upon payment of the prescribed fee.

(2) Upon receipt of an application under subsection (1), the Board shall issue the applicant with a certificate of registration if

- (a) the engineering organisation or engineering unit intends to practice in a declared field of engineering;
- (b) the engineering organisation or engineering unit has an established office or appointment in Zambia in engineering or an allied discipline; and
- (c) in the case of a consulting engineering organisation or engineering unit, it is a member of the Association of

Consulting Engineers of Zambia and has partners who are registered engineers with the relevant experience as determined by the Board.

(3) The Board shall issue a certificate of registration in the following fields of competence:

- (a) civil engineering;
- (b) electrical engineering;
- (c) geology or hydrogeology;
- (d) geomatic engineering;
- (e) mechanical engineering;
- (f) metallurgy;
- (g) mining;
- (h) environment engineering;
- (i) agriculture engineering; or
- (j) any other field that the Board may determine with the approval of the Council.

20. (1) An engineering professional, engineering organisation or engineering unit registered under this Act, shall use the following titles and abbreviations:

<i>Title</i>	<i>Abbreviation</i>
Registered Engineer	R.Eng
Registered Technologist	R.Teg
Registered Technician	R.Tec
Registered Craftsperson	R.Cra
Registered Engineering Organisation	R.Eng.O
Registered Engineering Unit	R.Eng.U

Titles for registered engineering professional, engineering organisation, etc.

(2) A person shall not use a title or abbreviation under subsection (1) unless the person is registered in accordance with this Act.

(3) A person who contravenes subsection (2) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

- Disqualification from registration** **21.** (1) A person shall not qualify for registration as an engineering professional under this Act if the person —
- (a) has been convicted of an offence involving fraud or dishonesty under this Act or any other law;
 - (b) has been declared to be of unsound mind under any law in force in Zambia;
 - (c) is an undischarged bankrupt; or
 - (d) has been found, by the Disciplinary Committee, to be guilty of professional misconduct.
- Registration of students of engineering** **22.** The Institution shall register students of engineering in accordance with the provisions of the constitution of the Institution.
- Changes in detail** **23.** Any person registered under this Act, shall notify the Registrar of any change in particulars relating to the registration, within seven days of the change.
- Cancellation of registration** **24.** (1) The Board shall cancel the registration of an engineering professional, engineering organisation, engineering unit or engineering student where—
- (a) the Board has reasonable grounds to believe that the registration was obtained through fraud, misrepresentation or concealment of any material fact;
 - (b) the engineering professional, engineering organisation or engineering unit is found guilty of professional misconduct under this Act or the Code of Ethics;
 - (c) the period for which the registration of the engineering professional, engineering organisation, engineering unit or engineering student was issued has lapsed;
 - (d) the engineering professional, engineering organisation, engineering unit or engineering student is convicted of an offence under any law; or
 - (e) since the registration, circumstances have arisen disqualifying the engineering professional, engineering organisation, engineering unit or engineering student from registration.
- (2) The Board shall, before cancelling the registration under subsection (1), give the engineering professional, engineering organisation, engineering unit or engineering student an opportunity to be heard.

(3) The Board may, before cancelling the registration of an engineering professional, engineering organisation, engineering unit or engineering student, suspend the engineering professional, engineering organisation, engineering unit or engineering student for such period and on such terms and conditions as the Board may determine.

(4) Where the Board cancels a certificate of registration under this section, the name of the engineering professional, engineering organisation, engineering unit or engineering student shall not be restored except on such conditions as may be prescribed by the Board and upon payment of the prescribed fee.

25. (1) A person shall not practise as an engineering professional, unless that person holds a practising certificate issued by the Board under this Act.

Prohibition of practise without practising certificate

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a period not exceeding seven years, or to both.

26. (1) An engineering professional shall apply to the Board for a practising certificate in the prescribed manner and form upon payment of the prescribed fee.

Application for practising certificate

(2) The Board shall, upon receipt of an application under subsection (1) and where the application meets such requirements as may be prescribed, issue the applicant with a practising certificate.

27. A holder of a practising certificate shall display the practising certificate in a conspicuous place at the place of practice.

Display of practising certificate

28. A holder of a practising certificate shall for professional services rendered, charge such fees as the Minister may prescribe, by statutory instrument, on the recommendation of the Council.

Fees for engineering services and works

29. (1) A practising certificate shall be renewed annually in the prescribed manner and form upon payment of the prescribed fee.

Renewal of practising certificate

(2) A practising certificate that is not renewed in accordance with subsection (1) is void.

(3) An engineering professional who practises engineering or provides any engineering service during any period in which a practising certificate is void commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding ten years, or to both.

Cancellation
of practising
certificate

30. (1) The Board shall cancel a practising certificate if the holder—

- (a) is found guilty of any professional misconduct;
- (b) is declared to be of unsound mind;
- (c) is an undischarged bankrupt;
- (d) contravenes the provisions of any law;
- (e) obtained the practising certificate through fraud, misrepresentation or concealment of a material fact; or
- (f) commits an offence under this Act or contravenes the Code of Ethics.

(2) Where a certificate of registration is cancelled under this Act, the practising certificate held by the holder of the certificate of registration shall be void and shall be surrendered to the Board.

(3) The Board shall, before cancelling a practising certificate under this section, give the holder of the practising certificate an opportunity to be heard.

(4) The Board may, before cancelling the practising certificate of an engineering professional, suspend the holder of the practising certificate for such period and on such terms and conditions as the Board may determine.

Regulations
relating to
practising
certificates

31. The Minister may, by statutory instrument, on the recommendation of the Board, make regulations to provide for—

- (a) the terms and conditions for the issuance of practising certificates;
- (b) the type of continuing professional development and training and any other information required for the issuance of a practising certificate; and
- (c) any other matter necessary for purposes of this Act.

Conditions
of certificate

32. A certificate issued under this Part shall contain such terms and conditions of the certificate as the Institution may determine.

Prohibition
of transfer of
certificate

33. A certificate issued under this Part shall not be transferred to a third party.

34. Where a certificate of registration has been cancelled or suspended, the holder of the certificate of registration may, subject to such terms and conditions as the Board may determine, apply for re-registration.

Re-registration

35. (1) A person whose certificate of registration is destroyed or lost may apply to the Registrar for a duplicate certificate in the prescribed manner and form upon payment of the prescribed fee.

Duplicate certificate of registration

(2) The Registrar may, upon receipt of an application under subsection (1), issue a duplicate certificate of registration to the applicant.

36. (1) A person may apply to the Registrar for a certificate of status, containing particulars relating to the registration of an engineering professional, engineering organisation, engineering unit or engineering student in the prescribed manner and form and upon payment of the prescribed fee.

Certificate of status

(2) Upon receipt of an application under subsection (1), the Registrar may issue a certificate of status to the applicant in the prescribed form.

37. (1) The Registrar shall keep and maintain a Register of all persons registered under this Act, in which the Registrar shall enter the details and particulars relating to—

Register

- (a) registered engineering professionals, engineering organisations, engineering units or engineering students;
- (b) the holders of practising certificates;
- (c) the applications rejected and the reasons therefor; and
- (d) any other information as the Institution may determine.

(2) The Register shall be kept in the custody of the Registrar at the offices of the Institution, and shall be open for inspection by members of the public during normal office hours upon payment of such fee as the Institution may determine.

(3) The Registrar may, upon application by any person, issue to the person a certified extract from the Register or a copy of a certificate of registration, upon payment of such fee as the Board may determine.

38. (1) The Minister may, on the recommendation of the Board, make regulations prescribing the circumstances and manner in which an engineering professional, engineering organisation, engineering unit or engineering student—

Removal and restoration of name on Register

(a) may be removed from the Register; and

(b) who is removed from the Register, may be restored on the Register and the fee to be paid for the restoration.

(2) Subject to subsection (1), an engineering professional, engineering organisation, engineering unit or engineering student who is removed from the Register ceases to be registered as an engineering professional, engineering organisation, engineering unit or engineering student.

(3) The Board may, where a holder of a practising certificate does not intend to practise for a specified period of time, maintain the name of the holder of the practising certificate on the Register, in a non-practising category, for that period of time.

Publication
of copies of
Register .

39. (1) The Registrar shall, on the direction of the Board, cause copies of the Register and any alterations thereof, or additions thereto, to be printed and published in such manner and form as the Board may direct.

(2) Subject to this Act, a copy of the last published and printed Register shall be evidence admissible in all legal proceedings of what is contained in that Register and the absence of the name of an engineering professional, engineering organisation, engineering unit or engineering student from that copy, shall be *prima facie* evidence that the engineering professional, engineering organisation, engineering unit or engineering student is not registered.

Appeals

40. (1) A person aggrieved with a decision of the Board may, within thirty days of receiving the decision, appeal to the Minister.

(2) A person aggrieved with a decision of the Minister may, within thirty days of receiving the decision, appeal to the High Court.

Holding out
as an
engineering
professional,
engineering
organisation,
etc.

41. (1) A person shall not, unless the person is registered as an engineering professional, engineering organisation or engineering unit under this Act—

(a) practice as, be employed as, offer engineering services, be engaged as an agent of, or hold out to be, an engineering professional, engineering organisation or engineering unit;

(b) adopt, use or exhibit the titles “ registered engineering organisation, ” “ registered engineering unit ”, “ registered engineer”, “ registered technologist ”, “registered technician,” “registered craftsperson” or any other title or abbreviation of like description; or

(c) do anything likely to lead persons to infer that the person is a registered engineering professional, engineering organisation or engineering unit.

(2) A person or body corporate shall not offer employment to a person requiring registration under this Act.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding ten years, or to both.

(4) An engineering professional, engineering organisation or engineering unit shall not permit the engineering professional's, engineering organisation's or engineering unit's name to be used by a person who is not a registered engineering professional, engineering organisation or engineering unit.

(5) A person who contravenes subsection (4) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding ten years, or to both.

(6) Where an engineering organisation or engineering unit commits an act which if done by an individual would be an offence under subsection (3), every partner in that organisation or unit shall be deemed to have committed the offence unless the partner proves that the offence was committed without the partner's knowledge or consent.

42. (1) The Board may, where an engineering organisation or engineering unit is being operated in contravention of this Act, by notice served on the engineering organisation or engineering unit, direct it to take, within such period as may be specified in the notice, such measures or steps as the Board may direct.

Enforcement
notice

(2) The Board shall, within seven days after serving the notice referred to in subsection (1), publish the notice in a daily newspaper of general circulation in Zambia.

(3) Where the engineering organisation or engineering unit fails, without reasonable cause, to comply with an enforcement notice issued under subsection (1), the Board may suspend or cancel the certificate of registration of the engineering organisation or engineering unit issued under section *seventeen*.

Offences regarding registered engineering professional, engineering organisation, etc.

43. (1) A person shall not —

- (a) make or cause to be made an unauthorised entry, alteration or erasure in the Register or a certified copy of an entry in the Register or a certificate of registration or other certificate issued under this Act;
- (b) impersonate or use the title of a registered engineering professional, engineering organisation or engineering unit while not registered as such under this Act;
- (c) procure, or attempt to procure, registration under this Act, by fraud, misrepresentation or the concealment of a material fact; or
- (d) forge a certificate of registration or other certificate issued under this Act.

(2) A person who contravenes subsection (1), commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding ten years, or to both.

Recognition of foreign qualifications

44. (1) The Minister may, on the recommendation of the Institution, by statutory instrument, recognise any local and foreign qualifications accredited by the Institution for purposes of registration under this Act.

(2) The Institution may register a person as an engineering professional under subsection (2) of section *seventeen*, who is not a citizen of Zambia or is not practising or working as an engineering professional in Zambia prior to the application, if that person—

- (a) is engaged to work as an engineering professional in Zambia under an international agreement entered into by the Government of the Republic of Zambia; or
- (b) undertakes such number of courses as the Institution may determine and passes the final examination for the courses.

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(3) Notwithstanding anything to the contrary in the Immigration and Deportation Act, an immigration officer shall not, without the approval of the Institution, issue an employment or entry permit to a person who intends to practise, or be employed, as an engineering professional in Zambia.

(4) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding ten years, or to both.

PART VI

DISCIPLINARY COMMITTEE

45. The Council shall adopt and publish a Code of Ethics for engineering professionals, engineering organisations and engineering units which shall bind all engineering professionals, engineering organisations and engineering units regulated under this Act.

Code of
Ethics

46. An engineering professional, engineering organisation or engineering unit commits professional misconduct if the engineering professional, engineering organisation or engineering unit—

Professional
misconduct

- (a) contravenes the provisions of this Act;
- (b) unlawfully discloses or uses to the advantage of the engineering professional, engineering organisation or engineering unit any information acquired in the practise of the engineering professional, engineering organisation or engineering unit;
- (c) engages in conduct that is dishonest, fraudulent or deceitful;
- (d) commits an offence under any other law;
- (e) engages in any conduct that is prejudicial to the engineering profession or is likely to bring it into disrepute; or
- (f) breaches the Code of Ethics or encourages another engineering professional, engineering organisation or engineering unit to breach or disregard the principles of the Code of Ethics.

47. (1) A person may lodge a complaint with the Disciplinary Committee against an engineering professional, engineering organisation or engineering unit where the person alleges that the engineering professional, engineering organisation or engineering unit has contravened the Code of Ethics or any provision of this Act.

Ethics.
Initiation of
disciplinary
action

(2) The Institution may initiate disciplinary action under this section where it has reasonable grounds to believe that an engineering professional, engineering organisation or engineering unit has contravened the Code of Ethics or any provision of this Act.

(3) A complaint or allegation shall be made to the Registrar in the prescribed manner and form.

48. (1) The Institution shall establish a Disciplinary Committee which shall comprise the following members:

Disciplinary
Committee

- (a) a Chairperson;
- (b) a Vice Chairperson;
- (c) the President of the Council; and
- (d) five registered Members who are not members of the Council, elected at a general meeting of the Institution.

(2) The Chairperson and Vice Chairperson of the Disciplinary Committee shall be legal practitioners qualified to hold, or who have held, high judicial office.

(3) A person shall not be appointed as a member of the Disciplinary Committee if the person —

- (a) has committed or been convicted of any professional misconduct;
- (b) is in lawful custody or the person's freedom of movement is restricted under any law in force within or outside Zambia;
- (c) has been convicted of an offence under any law; or
- (d) is declared to be of unsound mind under any written law.

(4) A member of the Disciplinary Committee shall hold office for three years and may be appointed for a further term of three years.

(5) A member of the Disciplinary Committee shall not serve for more than two terms.

(6) The Chairperson, or in the absence of the Chairperson, the Vice Chairperson, shall preside at every meeting and sitting of the Disciplinary Committee.

Functions of
Disciplinary
Committee

49. (1) The functions of the Disciplinary Committee are to hear and determine—

- (a) any disciplinary action initiated by the Institution against an engineering professional, engineering organisation or engineering unit that has contravened any provision of the Code of Ethics or any provision of this Act; or
- (b) any complaint or allegation made by any person against an engineering professional, engineering organisation or engineering unit.

(2) The Disciplinary Committee may publicise, as it may consider appropriate, the facts relating to any engineering

professional, engineering organisation or engineering unit that is found guilty of, and punished for, professional misconduct.

50. (1) Five members of the Disciplinary Committee shall form a quorum.

Proceedings
of
Disciplinary
Committee

(2) Any question at a sitting or meeting of the Disciplinary Committee shall be decided by a majority of the votes of the members of the Disciplinary Committee at the sitting or meeting and in the event of an equality of votes, the person presiding at the sitting or meeting shall have a casting vote in addition to that person's deliberative vote.

(3) All proceedings of the Disciplinary Committee shall be in camera.

(4) The Disciplinary Committee shall cause to be kept a record of its proceedings.

(5) A party to a hearing of the Disciplinary Committee may be represented by a legal practitioner or, if the party so elects, by any other person or in person.

(6) A decision of the Disciplinary Committee shall be in the form of a reasoned judgment and a copy thereof shall be supplied to each party to the proceedings and to every person affected by the decision.

(7) If a person is present at a meeting of the Disciplinary Committee at which any matter is the subject of consideration, and in which matter the person or that person's spouse is directly or indirectly interested in a private capacity, that person shall, as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the Disciplinary Committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

(8) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

51. (1) The Disciplinary Committee may, for the purposes of any hearing, hear and receive evidence and may, under the hand of the Chairperson of the Disciplinary Committee or the Registrar, summon witnesses and require the production of any book, record, document, electronic record or anything required for the purposes of the proceeding, and may through the Chairperson or Vice Chairperson of the Disciplinary Committee administer an oath to any witness.

Powers of
Disciplinary
Committee

(2) A person summoned to attend before the Disciplinary Committee who, without sufficient cause—

- (a) refuses or fails to attend at the time and place specified in the summons or, having attended, leaves without the permission of the Disciplinary Committee;
- (b) having attended, refuses to be sworn or to affirm;
- (c) refuses, without lawful excuse, to answer fully and satisfactorily to the best of that person's knowledge and belief, any question lawfully put to that person; or
- (d) refuses to produce any book, record, document or thing which that person has been required by summons to produce;

commits an offence and is liable, upon conviction, for every such refusal or failure, to a fine not exceeding twenty thousand penalty units.

(3) A person shall not be compelled to answer any question or produce any book, record or document which that person would not be compelled to answer or produce on the trial of an action in the High Court.

(4) A hearing before the Disciplinary Committee shall, for all purposes, and in particular for the purposes of Chapter XI of the Penal Code, be deemed to be a judicial proceeding.

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(5) Where the Disciplinary Committee, after due inquiry, finds an engineering professional, engineering organisation or engineering unit guilty of professional misconduct, it may impose one or more of the following penalties:

- (a) order the cancellation of a practising certificate or certificate of registration of the engineering professional, engineering organisation or engineering unit, or modify the fields of speciality in which the engineering professional, engineering organisation or engineering unit may practise;
- (b) censure the engineering professional, engineering organisation or engineering unit;
- (c) caution the engineering professional, engineering organisation or engineering unit;
- (d) impose a fine, not exceeding three hundred thousand penalty units to be paid to the Institution;

- (e) order the engineering professional, engineering organisation or engineering unit to pay to the Institution or to any other party to the hearing, any costs of, or incidental to, the proceedings;
- (f) order the engineering professional, engineering organisation or engineering unit to pay any party to the hearing or other person, as restitution, the amount of loss caused by that person's negligence; or
- (g) impose any reasonable conditions for the suspension, for a period not exceeding one year, of the certificate of registration or practising certificate of the engineering professional, engineering organisation or engineering unit.

(6) In any hearing before the Disciplinary Committee, any finding of fact which is shown to have been made by any court in Zambia shall be conclusive evidence of the fact so found.

(7) The Disciplinary Committee shall, where it has reasonable cause to believe that an engineering professional is, or has become mentally unsound to the extent that the continued practising by the engineering professional is prejudicial to public interest, refer the matter for determination by a medical doctor.

(8) The Disciplinary Committee shall, where a medical doctor determines that an engineering professional is of unsound mind, suspend the practising certificate of the engineering professional.

(9) The Disciplinary Committee shall, where after due inquiry, it finds an engineering professional, engineering organisation or engineering unit not guilty of professional misconduct, record a finding that the engineering professional, engineering organisation or engineering unit is not guilty of such conduct in respect of matters of which the charge relates.

(10) The Disciplinary Committee may, for the purpose of any proceedings use such assessors or experts as it may determine.

52. The Disciplinary Committee shall, as soon as practicable after the completion of each hearing, submit to the Council a report of the proceedings together with a copy of the record.

Reports by
Disciplinary
Committee

53. (1) A person aggrieved with a decision of the Disciplinary Committee may, within thirty days of receiving the decision, appeal to the High Court.

Appeals to
High Court

(2) The Institution shall be the respondent on any appeal under this section.

(3) A decision of the Disciplinary Committee under this Part shall not take effect until the expiration of the time for lodging an appeal against the decision or, if an appeal is lodged, until the time the appeal is disposed of, withdrawn or struck out for want of prosecution, as the case may be.

(4) The High Court may, on any appeal under this section—

(a) confirm, vary or set aside any finding made, penalty imposed or direction given by the Disciplinary Committee;

(b) remit the matter to the Disciplinary Committee for further consideration in accordance with such directions as the High Court may give; or

(c) make such other order as to costs or otherwise as it considers appropriate.

(5) Proceedings of the Disciplinary Committee shall not be set aside by reason only of some irregularity in those proceedings if such irregularity did not occasion a substantial miscarriage of justice.

Rules by
Chief Justice

54. The Chief Justice may, by statutory instrument, make rules regulating appeals to the High Court under this Part.

Rules
relating to
disciplinary
proceedings

55. (1) The Chief Justice may, by statutory instrument, on the recommendation of the Council, make rules relating to—

(a) the manner and form for lodging of complaints under this Part;

(b) the mode of summoning persons before the Disciplinary Committee;

(c) the form and manner of service of a summons requiring the attendance of a witness before the Disciplinary Committee and the production of any book, record, document or thing;

(d) the procedure to be followed and rules of evidence to be observed in proceedings before the Disciplinary Committee; and

(e) the functions of the assessors to the Disciplinary Committee.

(2) Rules made under this section may, in particular, provide—

(a) that before any matters are referred to the Disciplinary Committee they shall, in such manner as may be provided by the rules, have been brought before, and investigated by, the Institution in this respect;

- (b) for securing notices for the proceedings and specifying the time and manner of the proceedings; and
- (c) for securing that any party to the proceedings shall, if that person requires, be entitled to be heard by the Disciplinary Committee.

PART VII

GENERAL PROVISIONS

56. (1) A court of competent jurisdiction shall have jurisdiction over engineering professionals, engineering organisations or engineering units for any act committed outside Zambia which, if it had been committed in Zambia, would have been an offence or professional misconduct under this Act.

Jurisdiction over acts committed outside Zambia

(2) Any proceedings against an engineering professional, engineering organisation or engineering unit under this section which would be a bar to subsequent proceedings against the engineering professional, engineering organisation or engineering unit, for the same offence, if the offence had been committed in Zambia, shall be a bar to further proceedings against the engineering professional, engineering organisation or engineering unit under any written law relating to the extradition of persons, in respect of the same offence outside Zambia.

(3) The Mutual Legal Assistance in Criminal Matters Act shall apply to proceedings under this Act.

Cap. 98

57. In any criminal proceedings against an engineering professional, engineering organisation or engineering unit upon a charge of having performed an act which constitutes an offence if performed by an unregistered engineering professional, engineering organisation or engineering unit, the engineering professional, engineering organisation or engineering unit charged shall be presumed to be unregistered unless that engineering professional, engineering organisation or engineering unit proves the contrary.

Presumption of non-registration

58. Notwithstanding anything to the contrary contained in any written law, where a judgment or order has been obtained against the Institution, no execution or attachment, or process of any nature, shall be issued against the Institution or against the property of the Institution, but the Registrar shall cause to be paid out of the revenue of the Institution such amount as may, by the judgment or order, be awarded against the Institution to the person entitled to the amount.

No execution on property of Institution

59. A person who contravenes a provision of this Act for which a specific penalty is not provided, is liable, upon conviction, to a fine

General penalty

not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

Offences by
body
corporate or
unincorporate
body

60. Where an offence under this Act is committed by a body corporate or an unincorporate body, every director or manager of the body corporate or an unincorporate body shall be liable, upon conviction, as if the director or manager had personally committed the offence, unless the director or manager proves to the satisfaction of the court that the act constituting the offence was done without the knowledge, consent or connivance of the director or manager or that the director or manager took reasonable steps to prevent the commission of the offence.

Authority to
issue
guidelines

61. (1) In the exercise of its functions under this Act, the Institution may issue such guidelines as are necessary for the better carrying out of the provisions of this Act.

(2) The Institution shall publish the guidelines issued under this Act in a daily newspaper of general circulation in Zambia, and the guidelines shall not take effect until they are so published.

(3) The guidelines issued by the Institution under this Act shall bind all persons regulated under this Act.

Regulations

62. (1) The Minister may, by statutory instrument, on the recommendation of the Council, make regulations for the better carrying out of the provisions of this Act.

(2) Notwithstanding the generality of subsection (1), regulations under that subsection may make provision for—

- (a) the forms, fees payable and the procedure for applications to be made under this Act;
- (b) the information and documents to be submitted in support of applications to be made under this Act;
- (c) the form and the particulars to be entered on the Register;
- (d) the form of the certificate of registration and the conditions under which the certificate of registration is issued;
- (e) the form of the practising certificate and the conditions under which the practising certificate is issued;
- (f) the qualifications for registration of an engineering

professional, engineering organisation, engineering unit or engineering student;

- (g) the requirements and conditions for the recognition of local and foreign qualifications accredited by the Institution for purposes of registration under this Act;
- (h) the composition, functions, powers and procedures of a committee established under this Act;
- (i) the regulation of powers exercisable by the Council, its committees and bodies of the Institution;
- (j) the code of conduct to which all Members of the Institution shall subscribe, the continuous professional development and ethics for engineering professionals, engineering organisations and engineering units;
- (k) the fixing of fees for professional services and any other fees which are required to be prescribed; and
- (l) generally, the carrying into effect of the purposes of this Act.

63. (1) The Engineering Institution of Zambia Act, 1992, is hereby repealed.

Repeal of
Act No. 27
of 1992
Cap. 432

(2) Notwithstanding subsection (1), the provisions of the Second Schedule shall apply in respect of the matters specified therein.

(3) Notwithstanding subsection (1), a person who immediately before the appointed date, held office as a member of the Institution, Council or Board shall hold office as a member of the Institution, Council or Board for a period of three months after which the person shall be appointed or elected in accordance with the provisions of this Act.

(4) After the appointed date, an engineering professional, engineering organisation or engineering unit registered under the repealed Act shall continue to practise as an engineering professional, engineering organisation or engineering unit for a period of twelve months, after which the engineering professional, engineering organisation or engineering unit shall apply for registration in accordance with the provisions of this Act.

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FIRST SCHEDULE

(Sections 3 and 8)

PART I

ADMINISTRATION OF INSTITUTION

Seal of
Institution

1. (1) The Seal of the Institution shall be such device as may be determined by the Council and shall be kept by the Registrar.

(2) The President or a Vice President, the Registrar or any other person authorised by a resolution of the Council to so act, shall authenticate the affixing of the seal.

(3) Where a contract or instrument is not required to be under seal, the Registrar or a person authorised by the Council in that behalf, may execute the contract or instrument on behalf of the Council without seal.

(4) A document purporting to be a document under the seal of the Institution or issued on behalf of the Institution, shall be received in evidence and shall be executed or issued, as the case may be, without further proof, unless the contrary is proved.

Proceedings
of Council

2. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure.

(2) The Council shall meet for the transaction of business at least once in every three months at such places and times as the Council may determine.

(3) Upon giving notice of not less than fourteen days, a meeting of the Council may be called by the President and shall be called if not less than one third of the members so request in writing:

Provided that if the urgency of a particular matter does not permit the giving of notice, a special meeting may be called upon giving a shorter notice.

(4) One half of the members of the Council shall form a quorum.

(5) There shall preside at a meeting of the Council—

(a) the President;

(b) in the absence of the President, a Vice President; or

(c) in the absence of the President and the Vice Presidents, a member of the Council as the members present may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Council on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(7) Where a member is for any reason unable to attend a meeting of the Council, the member may, in writing, nominate another person from the same organisation to attend the meeting in that member's stead and such person shall be deemed to be a member for the purpose of that meeting.

(8) The Council may invite any person whose presence, in its opinion, is desirable to attend and participate in the deliberations of a meeting of the Council, but that person shall have no vote.

(9) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in the membership of the Council or any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.

(10) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and any committee established by the Council.

3. (1) The Council may, for the purpose of performing its functions under this Act, constitute a committee and delegate to the committee such functions of the Council as it considers necessary. Committees

(2) The Council may appoint as members of a committee constituted under sub paragraph (1), persons who are, or are not, members of the Council and such persons shall hold office for such period as the Council may determine.

(3) Subject to any specific or general direction of the Council, any committee constituted under this paragraph may regulate its own procedure.

4. A member of the Council or Board, or any committee thereof, shall be paid such allowances as the Council may, with the approval of the Minister, determine. Allowances

5. (1) If any person is present at a meeting of the Council, or a committee of the Council, at which any matter, in which that person or any member of the person's immediate family is directly or indirectly interested in a private capacity, is the subject of consideration, that person shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, Disclosure of interest

unless the Council or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter.

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

Prohibition of publication of, or disclosure of information to unauthorised persons

6. (1) A person shall not, without the consent in writing given by or on behalf of the Council, publish or disclose to any unauthorised person, otherwise than in the course of that person's duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to that person's knowledge in the course of that person's duties under this Act.

(2) A person who contravenes sub-paragraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) A person who, having information which to the knowledge of that person has been published or disclosed in contravention of sub-paragraph (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Immunity of member and staff

7. An action or other proceeding shall not lie or be instituted against a member of the Council or a committee of the Council, or a member of staff of the Council, for or in respect of any act or thing done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of any of the powers, functions or duties conferred under this Act.

PART II

FINANCIAL PROVISIONS

Funds of Institution

8. (1) The funds of the Institution shall consist of such moneys as may—

(a) be appropriated by Parliament;

(b) be paid to the Institution by way of fees, levy, grants or donations; or

(c) vest in or accrue to the Institution.

- (2) The Institution may—
- (a) accept moneys by way of grants or donations, subject to the approval of the Minister, from any source outside Zambia;
 - (b) raise by way of loans or otherwise, moneys as the Institution may require for the discharge of the Institution's functions; or
 - (c) in accordance with the regulations made under this Act, charge and collect fees for services provided by the Institution.
- (3) There shall be paid from the funds of the Institution—
- (a) the salaries, allowances and loans of members of staff of the Institution;
 - (b) reasonable travelling, transport and subsistence allowances for members of the Council or Board, or any committee thereof, when engaged in the business of the Institution, at rates as the Council may, with the approval of the Minister, determine; and
 - (c) any other expenses incurred by the Council or Board, or any committee thereof, in the performance of the Institution's functions.
- (4) The Council may invest, in such manner as the Council thinks fit, funds that the Institution shall not immediately require for the performance of the Institution's functions.

9. The financial year of the Institution shall be the period of twelve months ending on 31st December in each year.

Financial
year

10. (1) The Institution shall cause to be kept proper books of accounts and other records relating to the Institution's accounts.

Accounts
and audit

(2) The accounts of the Institution for each financial year shall be audited by the Auditor-General or such independent auditors as the Auditor-General may approve.

(3) The Institution shall, not later than six months after the end of each financial year of the Institution, submit to the Minister a report of its activities together with a copy of its audited accounts for that financial year, and the Minister shall not later than fourteen days after the first sitting of the National Assembly next after the receipt of the report, lay it before the National Assembly.

SECOND SCHEDULE

(Section 63 (2))

SAVINGS AND TRANSITIONAL PROVISIONS

- | | |
|--|---|
| Definition
Cap. 432 | <p>1. In this Schedule “former Institution” means the Institution established under the repealed Act.</p> |
| Staff of
Institution | <p>2. (1) For the avoidance of doubt, a person who, before the commencement of this Act, was an employee of the former Institution, shall continue to be an employee of the Institution as if employed under this Act.</p> <p>(2) The service of the persons referred to in sub-paragraph (1) shall be treated as continuous service.</p> <p>(3) Nothing in this Act, affects the rights and liabilities of any employee employed by the former Institution before the commencement of this Act.</p> |
| Transfer of
assets and
liabilities | <p>3. (1) On or after the appointed date, there shall be transferred to, vest in and subsist against the Institution by virtue of this Act and without further assurance, all assets, rights and obligations which immediately before that date were the assets, rights, liabilities and obligations of the former Institution.</p> <p>(2) Subject to subparagraph(1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Institution, was a party immediately before the commencement of this Act, whether or not of such a nature that rights, liabilities and obligations could be assigned, shall unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if —</p> <p>(a) the Institution, had been party to it;</p> <p>(b) for any reference to the former Institution there was substituted, with respect to anything falling to be done on or after the appointed date, a reference to the Institution; or</p> <p>(c) for any reference to any officer of the former Institution not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the appointed date, a reference to such officer of the Institution, as the Institution shall designate.</p> <p>(3) Where under this Act, any assets, rights, liabilities and obligations of the former Institution, are deemed to be transferred</p> |

to the Institution, in respect of which transfer a written law provides for registration, the Institution shall make an application in writing to the appropriate registration authority for registration of the transfer.

- 5 (4) The registration authority, referred to in sub-paragraph (3), shall make such entries in the appropriate register as shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make
10 necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

4. (1) Any legal proceedings pending immediately before the appointed date by or against the former Institution, may be continued by or against the Institution.

Legal
proceedings

- 15 (2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Institution, may be instituted by or against the Institution.
-