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THE ARCHITECTS AND QUANTITY SURVEYORS ACT

CHAPTER 525

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CHAPTER 525

ARCHITECTS AND QUANTITY SURVEYORS ACT

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CHAPTER 525

ARCHITECTS AND QUANTITY SURVEYORS ACT

[Date of assent: 29th December, 1933.]

[Date of commencement: 1st April, 1934.]

An Act of Parliament to provide for the registration of architects and quantity surveyors

[Act No. 60 of 1933, Legal Notice 551 of 1956, Legal Notice 562 of 1956, Legal Notice 420 of 1959, Legal Notice 172 of 1960, Legal Notice 462 of 1963, Legal Notice 2 of 1964, Act No. 29 of 1967, Act No. 12 of 1973, Act No. 20 of 1989, Act No. 21 of 1990, Act No. 7 of 1990, Act No. 9 of 2000, Act No. 19 of 2023.]

1. Short title

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

2. Interpretation

In this Act, unless the context otherwise requires—

"approved" means approved by the Board;

"register" means the register kept under section 6 of this Act;

"registered person" means any architect or quantity surveyor whose name has been entered into the register maintained under section 6;

"the Board" means the Board of Registration of Architects and Quantity Surveyors established by section 4 of this Act;

"the Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to Public Works;

"the Registrar" means the Registrar of Architects and Quantity Surveyors appointed under section 6 of this Act.

[Act No. 12 of 1973, s. 2, Act No. 20 of 1989, Sch.]

3. Restriction on use of titles

(1) Subject to the provisions of this Act, no person shall practice under any name, title or style containing any of the words or phrases "architect", "architecture", "architectural", "quantity surveyor" or "quantity surveying" unless he is registered under this Act as an architect or a quantity surveyor, as the case may be:

Provided that—

- (i) nothing in this Act shall apply to any person in the service of the Government or of the Community, or to any person who, for the purpose of preparing any particular piece of work for the Government, is exempted by the Cabinet Secretary from the provisions of this Act;
- (ii) a member of an approved professional institution who is entitled under the constitution thereof to display after his name any affix which includes the word "Architect", "Architecture" or "Architectural" or any abbreviation thereof, may use such affix whether he is so registered or not.

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

(3) Without prejudice to the powers of the Director of Public Prosecutions, proceedings for an offence under this section may be instituted by any person who is authorized in that behalf, whether generally or specially, by the Board in writing.

[Act No. 12 of 1973, s. 3, Act No. 19 of 2023, Sch.]

4. Establishment of the Board

(1) There is hereby established a Board of Registration of Architects and Quantity Surveyors which shall be a body corporate with perpetual succession and a common seal and shall be capable in law of suing and being sued and of acquiring, holding and alienating property movable and immovable in its corporate name.

(2) The Board shall consist of eight members who shall be architects or quantity surveyors and of whom—

- (a) four, at least one of whom shall be a quantity surveyor, shall be nominated by the Cabinet Secretary; and
- (b) four, at least one of whom shall be a quantity surveyor, shall be nominated by the Architectural Association of Kenya and approved by the Cabinet Secretary.

(3) The Cabinet Secretary shall appoint one of the members, whom he has nominated, to be the Chairperson of the Board.

(4) Five members of the Board shall constitute a quorum.

[L.N. 551/1956, L.N. 172/1960, Act No. 12 of 1973, s. 4.]

5. Power of Board to make by-laws

The Board may from time to time, subject to the confirmation of the Cabinet Secretary, make by-laws for all or any of the following purposes—

- (a) for the management and duties of the Board, the holding of meetings of the Board, the issue of notices calling such meetings and the procedure to be followed at such meetings;
- (b) for the appointment and duties of the officers of the Board;
- (c) for the appointment of committees, and the powers and duties and the proceedings of such committees;
- (d) for the administration, investment and expenditure of the property and funds of the Board from whatsoever source and for whatsoever purposes received;
- (e) for a definition of unprofessional conduct and for determining the mode of inquiry into and the method of dealing with such conduct and the penalties which may be imposed upon any member found guilty of such conduct;
- (f) for the scale of fees to be charged by architects and quantity surveyors for professional advice, services rendered, and work done;
- (g) for the fees to be paid for registration under this Act;
- (h) for the holding of examinations authorised or permitted under the provisions of this Act and for the carrying into effect of any scheme or curriculum for education in architecture or quantity surveying formulated under the provisions of section 10 hereof;

- (i) for the establishment, maintenance and support of and for subscribing to charitable and public objects and institutions;
- (j) for prescribing the procedure to be followed by persons applying for registration;
- (k) for prescribing the conditions under which persons registered under this Act may practise as limited liability companies, and for requiring professional indemnity insurance in the case of unlimited companies and private firms;
- (l) for instructions and orders conducive to the maintenance and improvement of the status of architects and quantity surveyors in Kenya;
- (m) for the adoption of a common seal and the manner in which such seal may be affixed to any instrument.

[L.N. 562/1956, L.N. 173/1960, Act No. 12 of 1973,
s. 5, Act No. 20 of 1989, Sch., Act No. 9 of 2000, s. 108.]

6. The Registrar and register

(1) The Cabinet Secretary shall appoint a person, who may be a public officer, to be the Registrar of Architects and Quantity Surveyors, who shall hold and vacate office in accordance with the terms of his appointment.

(2) The Registrar shall keep and maintain a register in which the name of every person, being suitably qualified under this Act, shall be entered as soon as is practicable after he is accepted by the Board for registration, showing against his name such particulars as the Board may, from time to time, direct.

(3) All changes in the particulars registered under subsection (2) of this section shall be entered in the register by the Registrar as soon as is practicable after he has received notification thereof.

[Act No. 12 of 1973, s. 6.]

7. Qualifications for registration as architect

No person shall be registered as an architect unless he—

- (a) has attained the age of twenty-one years; and
- (b) either—
 - (i) has had a minimum of five years of approved training followed by at least one year of practical experience in the work of an architect to the satisfaction of the Board, and has passed a prescribed examination; or
 - (ii) has been admitted as a corporate member of an approved professional institution whose qualifications for such admission are not less than those set out in subparagraph (i) of this paragraph; and
- (c) has had a minimum of one year of professional experience in Kenya to the satisfaction of the Board or has satisfied the Board that he has otherwise acquired an adequate knowledge of Kenya building contract procedures; and
- (d) has paid the prescribed registration fee.

[Act No. 12 of 1973, s. 7.]

8. Qualifications for registration as quantity surveyor

No person shall be registered as a quantity surveyor unless he—

- (a) has attained the age of twenty-one years; and
- (b) either—
 - (i) has passed a prescribed examination; or
 - (ii) has been admitted as a corporate member of an approved professional institution whose qualifications for such admission include the equivalent of such prescribed examination; and
- (c) has had a minimum of one year of professional experience in Kenya to the satisfaction of the Board or has satisfied the Board that he has otherwise acquired an adequate knowledge of Kenya building contract procedures; and
- (d) has paid the prescribed registration fee.

[Act No. 12 of 1973, s. 8.]

9. Qualifying examinations

The examinations referred to in sections 7 and 8 of this Act may be conducted either by the Board or by such other authority as the Board with the approval of the Cabinet Secretary may select.

[L.N. 562/1956, L.N. 173/1960.]

10. Scheme and curriculum for professional education

Subject to the approval of the Cabinet Secretary, the Board shall have the right from time to time to formulate, vary and carry into effect a scheme and curriculum for education in architecture and quantity surveying, and for this purpose may appoint committees and boards as may from time to time be thought expedient, and the Board may apply its funds in making provision for and furthering and developing any such scheme and curriculum and in providing for lectures or teaching and for the holding of examinations in accordance therewith and for granting prizes, certificates and diplomas in connection therewith, and (subject to such exemptions as may be allowed by and in accordance with the by-laws) the Board may require candidates for admission to final examination for the purpose of registration to have passed through a course of study under and in accordance with any such scheme and curriculum (including articulated pupilage for a period not exceeding five years) and to have passed such examination or examinations in relation to the subjects comprised in that course of study as shall from time to time be prescribed by or in accordance with the by-laws.

[L.N. 562/1956, L.N. 173/1960.]

10A.

[Repealed by Act No. 9 of 2000, s. 109.]

11. Power to remove from and correct register

(1) The Board may at any time direct that the name of a registered person be removed from the register where such registered person has—

- (a) failed within a period of six months from the date of an inquiry sent by the Registrar by pre-paid registered letter to the address appearing in the register against his name, to notify the Registrar of his current address; or

- (b) requested that his name be removed from the register in which case such person may be required to satisfy the Board by affidavit lodged with the Registrar that no criminal proceedings under section 13 of this Act are being or are likely to be taken against him; or
- (c) been found by the Board to be guilty of misconduct as is described in section 13 of this Act.

(2) The Registrar shall remove from the register the name of every registered person who dies, and shall remove from the register any entry which has been incorrectly or fraudulently made.

(3) Except in the circumstances specified in paragraph (a) of subsection (1), and in subsection (2) of this section, the removal of a registered person's name from the register shall be notified by the Registrar to that person by pre-paid registered letter addressed to the address appearing in the register against his name immediately before the removal.

(4) Subject to the provisions of section 12 of this Act, a person whose name has been removed from the Register shall cease from the date of such removal to be registered for the purpose of this Act.

[Act No. 12 of 1973, s. 9, Act No. 20 of 1989, Sch., Act No. 9 of 2000, s. 110.]

12. Restoration to the register

(1) Where the name of any registered person has been removed from the register under section 11 of this Act, the name of that registered person shall not be entered again in the register except by direction of the Board.

(2) Where the name of any person has been removed from the register or the effect of the registration of any person has been suspended in terms of paragraph (b) of section 13 of this Act, the Board may, either of its own motion or on the application of the person concerned made in the prescribed manner, and in either case after holding such inquiry as the Board thinks fit direct that—

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

(3) A direction given by the Board under subsection (2) of this section may include provision for the date upon which a restoration to the register or the termination of a suspension shall take effect and for the payment by the person concerned of such fee, not exceeding the fee payable on an application for registration, as the Board may determine.

[Act No. 12 of 1973, s. 10, Act No. 20 of 1989, Sch.]

13. Orders to suspend registration, etc.

If any person registered under this Act is convicted of an offence under this Act, or is, after due inquiry held by the Board, found to have been guilty of any act or omission amounting to improper or disgraceful conduct in a professional respect the Board may—

- (a) caution or censure such person;
- (b) direct that, during such period as the Board may specify, his registration shall not have effect;
- (c) impose a fine not exceeding five thousand shillings on that person; or

(d) direct that his name be removed from the register.

[Act No. 12 of 1973, s. 11.]

13A. Appeals

(1) Any person aggrieved by a decision of the Board to refuse to register his name, or to remove his name from the register, or to suspend the effect of registration of his name, or to refuse to restore his name to the register, may appeal to the High Court against the decision of the Board and in any such appeal the High Court may give such directions in the matter as it thinks proper, and any order of the High Court under this section shall be final.

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

(3) Until rules of court are made under the Judicature Act (Cap. 8) for such appeals, and subject to any such rules when made, the provisions of the Civil Procedure Act (Cap. 21) shall apply as if the decision or direction of the Board appealed against under this section were a decree of a court exercising original jurisdiction.

[Act No. 12 of 1973, s. 12.]

14. Limitation of liability of members

No member of the Board shall be personally liable for the acts, defaults or neglects of any other member, nor for any loss or damage occasioned to or suffered by the Board by an act in the execution of the duties of his office, unless such loss or damage shall be occasioned by his own dishonesty.

15. Exemption of persons holding certain qualifications

Nothing in this Act contained, except the provisions of section 3, shall be construed so as to prevent any person practising the profession of civil engineering, structural engineering, mechanical engineering or electrical engineering from performing any function or exercising any power which he might lawfully have performed or exercised if this Act had not been passed.

16. Application

This Act shall not apply to naval architects.
