



BERMUDA

PROFESSIONAL ENGINEERS REGISTRATION ACT 1972

1972 : 16

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[preamble and words of enactment omitted]

Interpretation

- 1 In this Act, unless the context otherwise requires,—
- “the Council” means the Professional Engineers Registration Council established under this Act;
- “registered engineer” means a person registered under this Act;
- “Minister” means the Minister for the time being responsible for Works and Engineering;
- “prescribed” means prescribed by regulations made by the Minister under this Act;

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“the Register” means the register maintained by the Registrar General under section 5.

Unqualified persons; offences

- 2 (1) Subject to the provisions of this Act, a person shall not, in Bermuda—
- (a) practise or carry on business under any name, style or title containing the “Registered Engineer”, “Registered Professional Engineer”, “Chartered Engineer” or “Professional Engineer”; or
 - (b) take or use any name, title or description (whether by initials or otherwise) stating or implying that he is a registered engineer,

unless his name is included on the Register.

(2) A person, whether or not a registered engineer, shall not in Bermuda take or use or affix to or use in connection with any premises occupied by him, any name, title or description (whether by initials or otherwise) reasonably calculated to suggest that he possesses any professional status or qualifications as an engineer other than a professional status or qualification which he in fact possesses and which, in the case of a registered engineer, is indicated by particulars entered in the Register in respect of him.

(3) Any person who contravenes any of the provisions of this section commits an offence against this Act:

Punishment on summary conviction: a fine of \$250 or imprisonment for six months, or both such fine and imprisonment.

Professional Engineer’s Registration Council

3 (1) For the purpose of this Act there shall be established a council of persons (in this Act referred to as “the Council”) who shall have the powers and perform the duties conferred upon them by or under the provisions of this Act.

(2) The Council shall be a body corporate under the name of “The Professional Engineer’s Registration Council” with the exclusive right to use that name and with power to sue and liability to be sued in their corporate capacity by that name in all courts and with power to have and use a common seal and to renew or vary the same at pleasure.

(3) The Council shall consist of six members all of whom shall be registered engineers, each of whom shall be appointed by the Minister and each of whom, subject to the provisions of section 13, may on appointment hold office for a term not exceeding six years:

Provided that where a member of the Council is by reason of ill health or absence from Bermuda, or by reason of any other sufficient cause, unable to perform his duties as a member of the Council, or where for any reason it appears to the Minister to be undesirable that he should perform those duties in any particular case, then the Minister shall appoint a registered engineer to act for that member during the period of his incapacity and any registered engineer so appointed shall, while he is so acting, be deemed for the purpose of this Act to be a member of the Council.

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(4) There shall be a Chairman of the Council who shall, subject as hereinafter provided, be appointed annually by the Minister from among the members of the Council to hold office until the 31st day of December for the year for which he was appointed and who shall be eligible for reappointment:

Provided that if at any time a person appointed to be Chairman ceases to be a member of the Council, or for any other reason ceases to hold office as such, the Minister shall, as soon as may be, appoint from among the members of the Council another person to be Chairman in his stead.

(5) If at any meeting of the Council the Chairman is absent, the members present (being a quorum) shall elect one of their number to act as Chairman at that meeting.

(6) Four members of the Council shall constitute a quorum at any meeting.

(7) Every question or matter to be determined by the Council at any meeting shall be decided by a majority of the members present at that meeting:

Provided that in the event of an equal division of votes on any question or matter the Chairman of that meeting may give a second or casting vote.

(8) The Minister, in appointing persons to be members of the Council shall, so far as is practicable, appoint not more than two persons from the same branch of the engineering profession.

[Section 3 subsections (3), (4) and (8) amended by 2019 : 56 s. 7 effective 20 July 2020]

Qualification for registration

4 (1) Subject to this Act, a person shall, on application made in the prescribed manner and upon payment of the prescribed fee, be entitled to be registered under this Act if the Council are satisfied that the applicant possesses Bermudian status within the meaning of the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*] or is ordinarily resident in Bermuda and—

- (a) is a corporate member of one or more of the member institutions of the Council of Engineering Institutions of the United Kingdom; or
- (b) is recognized as a professional engineer by the Canadian Council of Professional Engineers; or
- (c) possesses any other qualifications which, in the opinion of the Council, would satisfy all of the admission requirements (except those pertaining to residence) of the Canadian Council of Professional Engineers or of the Association of Professional Engineers of the Province of Ontario in Canada.

(2) Nothing in this Act shall derogate from the provisions of the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*].

Registrar-General to keep register of engineers

5 (1) The Registrar General shall cause to be kept and maintained a register of engineers containing the names and professional qualifications and addresses of those

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persons registered under this Act and such other particulars respecting those persons as may from time to time be prescribed.

(2) The Registrar General shall cause to be published in the Gazette, so soon as may be after the first day of January in each year, a list of names and other particulars entered in the Register on that date, and a copy of the Gazette containing the most recent list so published shall be prima facie evidence in all courts that the persons whose names are included therein are registered engineers, and the absence of the name of any person from such list shall be prima facie evidence that that person is not a registered engineer:

Provided that—

- (a) in the case of any person who does not appear in any list, a certificate purporting to be signed by the Registrar General of the entry of the name of such person in the Register and the date of such entry shall be prima facie evidence—
 - (i) that he is a registered engineer; and
 - (ii) of the date upon which he became a registered engineer;
- (b) in the case of any person whose name does appear in any such list, a certificate as aforesaid of the striking off or removal of the name of that person from the Register and of the date of the striking off or removal, shall be prima facie evidence—
 - (i) that he is not a registered engineer; and
 - (ii) of the date upon which he ceased by virtue of the striking off or removal to be a registered engineer.

(3) The Registrar General—

- (a) shall cause to be entered in the Register the name of a person—
 - (i) whom the Council are satisfied is entitled to be registered under the provisions of section 4; or
 - (ii) whose name, having been struck off or removed from the Register, is to be restored to the Register in pursuance of section 10;
- (b) shall cause to be made in the Register such alterations and additions relating to particulars of registered engineers as may from time to time become necessary;
- (c) shall cause to be removed from the Register the name of a registered engineer—
 - (i) who has died; or
 - (ii) who has, under section 9, applied to have his name removed from the Register; or

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- (iii) who, not possessing Bermudian status within the meaning of the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*] ceases to be ordinarily resident in Bermuda;
- (d) shall cause to be struck off the Register the name of a person whose name is to be struck off the Register under section 8; and
- (e) may, without prejudice to anything in the foregoing provisions of this section, cause such notices to be published in the Gazette as appear to him to be expedient in the circumstances.

Application for registration

6 (1) A person who desires to be registered under this Act (hereinafter referred to as an “applicant for registration”) shall apply in the prescribed form to the Registrar General and shall forward to the Registrar General such documents relating to his professional qualifications, experience and character in support of the application as may from time to time be prescribed, together with such fee as may be prescribed.

(2) The Registrar General shall cause the application and the accompanying documents (if any) to be transmitted to the Council who shall, as soon as conveniently may be, meet to consider the application.

(3) Where, as a result of their consideration of the application and after making such enquiries, if any, as appear to them desirable in the circumstances, the Council are satisfied that the applicant for registration is entitled to be registered, the Council shall as soon as conveniently may be, inform the Registrar General of their decision and the Registrar General shall cause the name of the applicant and his address and his professional qualifications to be entered in the Register with such other particulars as may from time to time be prescribed, and shall cause a certificate of registration in the prescribed form to be completed and forwarded to the applicant.

(4) Where the Council are not satisfied that an applicant for registration is entitled to be registered, the Council shall inform the Registrar General of their decision and the reasons therefor and the Registrar General shall in turn cause the applicant to be informed of the decision of the Council and of the reasons therefor.

(5) A person aggrieved by any decision of the Council under this section may appeal to the Supreme Court against the decision in the manner prescribed by section 11.

[Section 6 subsection (5) amended by 2019 : 56 s. 7 effective 20 July 2020]

Professional conduct

7 (1) Where the Council becomes aware of any allegation of disgraceful conduct in a professional respect on the part of a registered engineer, they shall as soon as may be enquire into the matter and in respect of any such enquiry the succeeding provisions of this section shall have effect—

- (a) the Council may take evidence on oath and for that purpose the Chairman of the Council may administer an oath;
- (b) the Council shall afford the registered engineer every facility—

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- (i) to appear before the Council at all stages of the enquiry;
- (ii) to be represented by counsel;
- (iii) to cross-examine witnesses: and
- (iv) generally to make a full defence or explanation of the matter;
- (c) the Council shall inform the Registrar General of their findings and the Registrar General shall inform the registered engineer accordingly; and
- (d) the registered engineer shall be entitled to appeal against any such finding to the Supreme Court in the manner provided in section 11.

(2) The general standard of professional conduct to which a registered engineer shall conform shall be that determined by the Council and published in the Gazette, and with respect thereto the Council shall be guided by the code of professional conduct from time to time prescribed by the Association of Professional Engineers of the Province of Ontario in Canada.

(3) Any proceedings in connection with the holding of an enquiry by the Council in pursuance of this section shall, for the purposes of the provisions of the Criminal Code [*title 8 item 31*] relating to perjury, be deemed to be judicial proceedings.

[Section 7 subsection (1)(d) amended by 2019 : 56 s. 7 effective 20 July 2020]

Striking off

8 (1) Where a registered engineer—

- (a) is convicted, whether in Bermuda or elsewhere, of any offence and as a result of that conviction is sentenced to a term of imprisonment without the option of a fine; or
- (b) has his name struck off any register maintained and kept in any place outside Bermuda upon the order of any properly constituted and recognised professional society,

it shall be the duty of the registered engineer to inform the Council of the occurrence and circumstances of that event.

(2) It shall be the duty of the Council, if they are satisfied as to the occurrence of such an event as is mentioned in subsection (1) or if they have found a registered engineer to be guilty of conduct disgraceful to him in a professional respect in pursuance of section 7, and after giving the registered engineer opportunity to make such explanation as he may wish to do, to decide as soon as may be whether the name of the registered engineer should be struck off the register.

(3) Where the Council decide that the name of a registered engineer should be struck off the Register they shall so inform the Registrar General, and the Registrar General shall cause the registered engineer to be informed by written notice accordingly.

(4) A registered engineer shall be entitled to appeal against any such decision of the Council to the Supreme Court in the manner provided in section 11.

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(5) The Registrar General, where the Council decide that the name of a registered engineer should be struck off the Register, shall—

- (a) cause the name of the registered engineer to be struck off the Register unless within ten days of the service of the notice of the decision of the Council the registered engineer serves notice on the Registrar General of his intention to appeal against that decision; or
- (b) where notice of intention to appeal is duly served and the appeal is subsequently dismissed by the Supreme Court, cause the name of the registered engineer to be struck off the Register;

and, in either such case, the Registrar General shall—

- (i) cause the registered engineer to be informed by written notice that his name has been struck off the Register;
- (ii) by a notice given as aforesaid, require the registered engineer to return his certificate of registration within seven days after receiving the notice; and
- (iii) cause a notification of the striking off to be published in the Gazette.

(6) Any registered engineer who contravenes subsection (1) commits an offence against this Act:

Punishments on summary conviction: a fine of \$250.

(7) Any person who fails to return his certificate of registration to the Registrar General in accordance with any requirement duly given under subsection (5)(ii) commits an offence against this Act:

Punishment on summary conviction: a fine of \$60.

[Section 8 subsections (4) and (5) amended by 2019 : 56 s. 7 effective 20 July 2020]

Voluntary removal

9 Any registered engineer may apply to the Registrar General to have his name removed from the Register, and upon receiving any such application and on surrender of the certificate of registration, the Registrar General shall cause his name to be removed accordingly.

Restoration of name

10 (1) Where—

- (a) the name of a registered engineer has been struck off the Register under section 8; or
- (b) the name of a registered engineer has been removed from the Register under section 9,

the registered engineer, at any time after the expiration of one year after the date of the striking off or removal, as the case may be, shall be entitled to apply to the Council for his name to be restored to the Register.

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(2) Upon receipt of any such application as aforesaid the Council, having regard, as in the circumstances may be material, to—

- (a) the character of the person;
- (b) his conduct subsequent to his name being struck off;
- (c) the nature of the matter in respect of which the striking off occurred;
- (d) his professional ability; and
- (e) the other circumstances of the case,

may decide that his name be restored to the Register.

(3) The Council shall in every case inform the Registrar General of their decision under subsection (2) and the Registrar General shall take such steps to—

- (a) inform the person accordingly;
- (b) make such entries, deletions or otherwise in the Register as may be appropriate; and
- (c) forward a certificate of registration to the person,

as in the circumstances may be necessary to give effect to the decision.

Appeals

11 Where a person is aggrieved by any decision of the Council in respect of which an appeal is allowed under this Act, he may, within seven days after receiving any notice communicating that decision to him, appeal to the Supreme Court, and the Supreme Court shall determine any such appeal and may make such order as appears to it just; and the Council and the Registrar General (as regards their duties under this Act) shall govern themselves accordingly.

[Section 11 amended by 2019 : 56 s. 7 effective 20 July 2020]

Minister may make regulations

12 (1) The Minister may make regulations for the better carrying out of this Act and, without prejudice the generality of the foregoing, regulations may provide for—

- (a) prescribing the forms, notices or other documents to be used for any of the purposes of this Act;
- (b) specifying the manner in which notices shall or may be served;
- (c) prescribing documents required to be forwarded with applications for registration under this Act;
- (d) prescribing any other matter or thing which by or under this Act may be or is to be prescribed; and
- (e) prescribing any fees which may be payable under this Act.

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(2) The Minister shall, before making any regulations under this section, have regard to any representation made by the Council in that behalf.

(3) The negative resolution procedure shall apply to regulations made under this section.

Transitional

13 *[omitted]*

[Assent Date: 21 March 1972]

[Amended by:

2019 : 56]