



BERMUDA
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PROFESSIONAL SURVEYORS REGISTRATION ACT 1997

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SCHEDULE

WHEREAS it is expedient to establish a scheme of registration of professional surveyors in Bermuda, and to provide for connected matters:

[1 June 2001]

[Words of enactment omitted]

PROFESSIONAL SURVEYORS REGISTRATION ACT 1997

Short title

1 This Act may be cited as the Professional Surveyors Registration Act 1997.

Interpretation

2 In this Act—

"the appointed day" means the day appointed under section 17;

"a Bermudian" means a person possessing Bermudian status under the Bermuda Immigration and Protection Act 1956 [title 5 item 16];

"the Code" means the Code provided for in section 11;

"the Council" means the Professional Surveyors Registration Council established by section 4;

"the Minister" means the Minister responsible for the Environment;

"prescribe" means prescribe by regulations;

"professional misconduct" and "gross professional misconduct" have the meanings referred to in section 11(3);

"the Register" means the register provided for in section 6;

"to register" has the meaning assigned to it by section 8(4), and grammatical variations of "to register" have corresponding meanings;

"registered surveyor" means a person registered under this Act;

"regulations" means regulations made under section 14.

Restriction on use of professional names, etc.

3 (1) Subject to this Act, a person shall not in Bermuda—

(a) take or use, or practise, or carry on business under, any name, style, title or description which includes the word "surveyor"; or

(b) take or use any name, style, title or description (including one consisting of initials) which states or implies that he is a registered surveyor,

if he is not a registered surveyor.

(2) A person shall not in Bermuda take or use, or affix to any premises used by him, any name, style, title or description (including one consisting of initials) which states or implies that he possesses qualifications as a surveyor which he does not in fact possess.

The Professional Surveyors Registration Council

4 (1) There shall be a body corporate called "the Professional Surveyors Registration Council".

(2) In addition and without prejudice to any other functions that the Council has under this Act or under any other statutory provision, the Council is responsible for—

- (a) the promotion and maintenance of high technical standards among registered surveyors;
- (b) the exercise of disciplinary control over registered surveyors; and
- (c) such other matters of professional concern to registered surveyors as the Council may determine.

(3) The Council shall consist of a chairman and such other members, not being fewer than five, as the Minister may from time to time determine.

(4) The Council is not exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local.

(5) The provisions of the Schedule have effect in relation to the constitution of, and other matters concerning, the Council.

Qualifications for registration

5 Subject to this Act, a person is entitled to be registered as a registered surveyor under this Act if he is a Bermudian or is ordinarily resident in Bermuda and satisfies the Council—

- (a) that he is a Fellow or Professional Associate of the Royal Institution of Chartered Surveyors of the United Kingdom; or
- (b) that he has qualifications in surveying consisting of—
 - (i) a degree or diploma obtained after not less than three years of study; and
 - (ii) not less than two years of practical experience, being a degree or diploma and experience approved by the Council; or
- (c) not being qualified under paragraph (a) or (b), that he has been engaged for not less than five years in the practice of surveying, and has qualifications and experience in surveying approved by the Council; or

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- (d) if he applies for registration within 12 months after the appointed day, that he has been engaged in the practice of surveying in Bermuda, to a standard approved by the Council, for not less than five years immediately preceding that day.

The Register of Surveyors

6 (1) There shall be a register, called "the Register of Surveyors", which the Registrar-General shall maintain at his office.

(2) The Register is an official record and shall set forth—

- (a) the names, addresses and qualifications of registered surveyors; and
- (b) the branch or branches of the surveying profession in relation to which each registered surveyor is registered; and
- (c) such other particulars as the Registrar-General considers to be necessary or expedient for identifying registered surveyors or as may be prescribed.

(3) It is the Registrar-General's duty to keep the Register correct in accordance with the provisions of this Act and the regulations, to erase the names of persons who have died, and from time to time to make necessary alterations in the registered particulars of registered surveyors.

Annual gazetting of particulars

7 (1) As soon as may be after 1st January in every year the Registrar-General shall publish in the Gazette a notice, in such form as he sees fit, setting forth the names and other particulars entered in the Register on that date.

(2) A copy of the latest-gazetted such notice is prima facie evidence in all courts that the persons whose names are included in the notice are registered surveyors; and the absence of a person's name from such a notice is prima facie evidence in all courts that he is not a registered surveyor.

Registration

8 (1) A person who desires to be registered as a registered surveyor shall make application to the Council through the Registrar-General.

(2) The application shall be in the prescribed form and be accompanied by the prescribed fee.

(3) The Council shall consider the application as soon as may be, and may either approve or reject it.

(4) Where the Council approves the application, it shall direct the Registrar-General to register the applicant, that is to say, to—

(a) enter the required particulars relating to him in the Register; and

(b) issue to him a certificate of registration in the prescribed form.

(5) Where the Council rejects the application, it shall record its decision and the reasons for it in writing, and direct the Registrar-General to inform the applicant.

(6) An applicant who is aggrieved by a decision of the Council under this section may appeal to the Cabinet against it under section 13.

Stamps

8A (1) The Council shall issue to every registered surveyor a stamp of such design as the Minister may prescribe.

(2) Every registered surveyor to whom a stamp has been issued in his own name shall affix his stamp to and sign all drawings or documents which have been prepared by him or under his supervision.

(3) All stamps issued under this section shall remain the property of the Council and shall be returned to the Council in the event of the death or resignation of the surveyor, or the removal of his name from the register.

[Section 8A inserted by 2004:17 s.2 effective 28 September 2007]

Voluntary removal of name from Register

9 A registered surveyor who desires to have his name removed from the Register shall make application for the purpose to the Registrar-General, surrendering his certificate of registration; and the Registrar shall thereupon make the necessary alterations to the Register.

Striking off name from Register

10 (1) If the Council is satisfied—

(a) that a registered surveyor has been convicted, whether in Bermuda or elsewhere, of an offence for which he has been sentenced to imprisonment without the option of a fine; or

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- (b) that the name of a registered surveyor has been struck off a register kept outside Bermuda by a recognized professional body; or
- (c) that a registered surveyor is guilty of gross professional misconduct,

the Council shall, subject to this Act, decide as soon as may be whether the registered surveyor's name should be struck off the Register.

(2) The expression "a recognized professional body" in subsection (1)(b) means a body of surveyors established in a country outside Bermuda, being a body which—

- (a) has disciplinary powers over surveyors in that country; and
- (b) is recognized by the Council for the purposes of this section.

(3) In relation to any particular registered surveyor, a body may be recognized by the Council under paragraph (b) of subsection (2) for the purposes of this section after he has been struck off by that body.

(4) It is the duty of every registered surveyor who is convicted as mentioned in paragraph (a) of subsection (1) or whose name is struck off a register as mentioned in paragraph (b) of that subsection to inform the Council forthwith of that fact and the attendant circumstances.

(5) Before the Council decides to strike a registered surveyor's name off the Register, it shall give him a reasonable opportunity to make such representations, and to give such explanations, in the matter as he may wish to make or give, and the Council shall take any such representations or explanations into account.

(6) Where the Council decides to strike a registered surveyor's name off the Register, it shall direct the Registrar-General accordingly; but, before such a decision or direction can take effect the Council must inform the registered surveyor in writing of what the Council intends so that he may exercise his rights under subsection (7) if he wishes.

(7) A registered surveyor who receives a notice in writing as mentioned in subsection (6) may appeal to the Cabinet against the decision in question under section 13.

(8) Where a decision to strike a registered surveyor's name off the Register has taken effect, the Registrar-General shall—

- (a) inform him by notice in writing that his name has been so struck off; and

- (b) by the same or another notice require him to return to the Registrar-General his certificate of registration within fourteen days of his receipt of the notice; and
- (c) publish in the Gazette notice of the striking-off.

Conduct of registered surveyors

11 (1) The Council shall establish a Code of Conduct for registered surveyors ("the Code") as soon as may be after the appointed day, and may amend the Code as it sees fit from time to time.

(2) The Council shall publish in the Gazette—

- (a) the Code as first established; and
- (b) every amendment of the Code.

(3) The Code shall prescribe the meaning of the expressions "professional misconduct" and "gross professional misconduct"; and those expressions have in this Act the meanings so prescribed.

(4) If an allegation of professional misconduct by a registered surveyor is brought to the notice of the Council, the Council shall enquire into the allegation as soon as may be; and the following provisions of this subsection have effect in relation to any such enquiry—

(a) the Council shall allow him—

- (i) to appear before the Council;
- (ii) to be represented by counsel;
- (iii) to cross-examine witnesses;
- (iv) generally to make a full defence of his interests;

(b) the proceedings are deemed to be judicial proceedings for the purposes of the provisions of the Criminal Code relating to perjury;

(c) the Council shall exercise its powers under the Code and inform the registered surveyor of its decision by notice in writing;

(d) the registered surveyor may appeal to the Cabinet under section 13.

Restoration of name to Register

12 (1) A registered surveyor whose name has been removed from the Register under section 9 or struck off under section 10 may after the expiry of one year after the date of the removal or striking-off make

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application to the Council through the Registrar-General for his name to be restored to the Register.

(2) The application shall be in the prescribed form and be accompanied by the prescribed fee.

(3) Upon receipt of the application, the Council shall consider—

- (a) the character and professional ability of the applicant;
- (b) where his name was struck off the Register, the offence for which his name was so struck off;
- (c) his conduct after his name was removed from or struck off the Register;
- (d) any relevant provision of the Code; and
- (e) any other circumstance appearing to the Council to be relevant,

and shall then in light of that consideration decide to restore the applicant's name to the Register or not so to restore it, as the case may require.

(4) Where the Council has made a decision under subsection (3), it shall give the Registrar-General the requisite directions for implementing the decision including, in the case where the applicant's name is to be restored to the Register, a direction to issue to him a fresh certificate of registration.

(5) A person who is aggrieved by a decision of the Council under this section may appeal to the Cabinet against it under section 13.

Appeals to the Cabinet

13 (1) A person who is aggrieved by a decision to which this section applies may within fourteen days after the relevant date ("the appeal period") appeal to the Cabinet against the decision by notice in writing to the Secretary to the Cabinet setting out the grounds of his appeal; and the Cabinet shall decide the appeal and make such order in the appeal as seems just.

(2) Once the Cabinet has decided an appeal under subsection (1), the Council and the Registrar-General shall implement the Cabinet's decision and guide themselves accordingly.

(3) The decisions to which this section applies, and the relevant date in relation to each such decision, are as set forth in the following Table—

<u>Decision</u>	<u>Relevant date</u>
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(a) decision referred to in section 8(5):	date on which the aggrieved person received notice of the decision;
(b) decision referred to in section 10(6):	date on which the aggrieved person received notice under section 10(6);
(c) decision under section 11(4)(c):	date on which the aggrieved person received notice under section 11(4)(c);
(d) decision under section 12(3):	date on which the aggrieved person received notice under section 12(4).

(4) A decision to which this section applies affecting a person does not take effect in relation to him until the expiry of the appeal period or, where he brings an appeal, until the appeal is decided or abandoned.

Regulations

- 14 (1) The Minister may make regulations—
- (a) prescribing forms, notices or other documents to be used for 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 under this Act;
 - (d) prescribing any other matter or thing which by or under this Act may be or is to be prescribed.
- (2) The Minister shall consult the Council before he makes any regulations.
- (3) Regulations are subject to the negative resolution procedure.

Offences

- 15 A person who contravenes—
- (a) section 3(1) or (2); or
 - (b) section 10(4); or
 - (c) a requirement lawfully made of him under section 10(8)(b),

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is guilty of an offence and is liable on summary conviction to imprisonment for twelve months or to a fine of ten thousand dollars or to both.

Transitional

16 If a person, whose claim to be registered depends on his satisfying the requirements of paragraph (d) of section 5, has duly applied under that paragraph and section 8 for registration within 12 months after the appointed day, he is deemed to satisfy those requirements as long as his application has not been approved or rejected under section 8.

Commencement

17 This Act comes into operation on such day as the Minister may appoint for the purpose by notice published in the Gazette.

THE SCHEDULE

(Section 4(5))

The Professional Surveyors Registration Council

- 1 The members of the Council shall be appointed by the Minister for a term not exceeding six years.
- 2 (1) In appointing members to the Council, the Minister shall—
 - (a) ensure that at any time not fewer than five are registered surveyors; and
 - (b) arrange, as far as is practicable, that not more than three members belong to the same branch of the surveying profession.
- (2) For the purposes of the first constitution of the Council, sub-paragraph (1)(a) above has effect as if for the words "registered surveyors" the words "persons who in the Minister's opinion are eligible for registration under paragraph (a) or (b) or (c) of section 5" were substituted.
- 3 The chairman shall be appointed annually by the Minister from among the members of the Council, but so that, if at any time a person holding office as chairman ceases to hold office as such or ceases to be a member of the Council, the Minister shall appoint another member to be chairman in his stead.
- 4 A member whose term has expired may be re-appointed.
- 5 If the Minister is satisfied that a member is by reason of ill-health or absence from Bermuda or other sufficient cause unable to perform his duties as a member, the Minister may

- appoint a registered surveyor to act for that member during the period of his incapacity.
- 6 A member may at any time resign his office by giving the Minister a signed notice in writing of his resignation.
- 7 The Minister may at any time declare the office of a member vacant if he is satisfied that the member—
- (a) has failed without sufficient cause to attend three consecutive meetings of the Council; or
 - (b) is incapacitated by physical or mental illness; or
 - (c) has otherwise become unable or unfit to perform his duties as a member.
- 8 A person appointed to fill a vacancy left by a member who did not complete his term of office may be appointed for the unexpired portion of that member's term and no longer, but an appointment to such a vacancy need not be made where the unexpired portion of the term is less than three months.
- 9 Four members constitute a quorum at any meeting of the Council.
- 10 If the chairman is absent from a meeting of the Council, the members present shall elect one of their number to act as chairman at that meeting.
- 11 Any question for decision by the Council shall be decided by a majority of the members present and voting. Each member has one vote, except that the person presiding has a second vote if there is a tie.
- 12 An act of the Council is not invalid by reason only of a vacancy in the Council's membership or a defect in a member's appointment.
- 13 Subject to the above provisions, the Council may regulate its proceedings as it sees fit.

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[Amended by:

2004:17]