

No. 4 of 2007

*Professional Engineers (Registration) (Amendment) Act 2007*

Certified on: 08.06.07



No. of 2007.

***Professional Engineers (Registration) (Amendment) Act 2007.***

**ARRANGEMENT OF SECTIONS.**

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15. Deregistration or suspension of registration (Amendment of Section 20).
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No. of 2007

AN ACT

entitled

*Professional Engineers (Registration)(Amendment) Act 2007,*

Being an Act to amend the *Professional Engineers (Registration) Act 1986.*

MADE by the National Parliament.

**1. DEFINITIONS (AMENDMENT OF SECTION 1).**

Section 1 of the Principal Act is amended –

- (a) by inserting immediately after the definition "Board" the following definition:-

"Institution" means the Institution of Engineers of Papua New Guinea; and
- (b) in the definition "professional engineering work" by repealing -
  - (i) the conjunction "or" at the end of Paragraph (a) and replacing it with the conjunction "and"; and
  - (ii) the words "and the execution of engineering work; or" and replacing them with the conjunction"; and"; and
  - (iii) the conjunction "or" at the end of Paragraph (c) and replacing it with the conjunction "and".
- (c) by inserting immediately after the definition "professional engineering work" the following definition:-

"provisionally registered engineer" means a person provisionally registered under this Act;"; and
- (d) by inserting immediately after the definition "registrar" the following definition:-

"resident" means any person who is liable to pay taxation under the *Income Tax Act 1959*;"; and
- (e) by repealing the definition "Society".

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**2. ESTABLISHMENT AND CONSTITUTION OF THE BOARD  
(AMENDMENT OF SECTION 2).**

Section 2 of the Principal Act is amended in Subsection (2) by repealing the words "Society of Professional Engineers" and replacing them with the word "Institution".

**3. CHAIRMAN AND DEPUTY CHAIRMAN (AMENDMENT OF SECTION 3).**

Section 3 of the Principal Act is amended –

- (a) in Subsection (1), by repealing the word "Society" and replacing it with the word "Institution"; and
- (b) in Subsection (2), by repealing the word "Society" and replacing it with the word "Institution".

**4. TENURE OF OFFICE (AMENDMENT OF SECTION 4).**

Section 4 of the Principal Act is amended in Subsection (1) by repealing the word "Society" and replacing it with the word "Institution".

**5. REPEAL OF SECTION 5.**

Section 5 of the Principal Act is repealed.

**6. MEETINGS OF THE BOARD (AMENDMENT OF SECTION 6).**

Section 6 of the Principal Act is amended in Subsection (1), by –

- (a) repealing the word "shall" and replacing it with the words "shall normally"; and
- (b) adding at the end of the following:-  
", and in the event that both the Chairman and Deputy Chairman  
Are absent, the Board may elect a member to act as the  
Chairman".

**7. NEW SECTION 7A.**

The Principal Act is amended by inserting immediately after Section 7 the following new section:-

**"7A. DISCLOSURE OF INTEREST.**

(1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Board (otherwise than as a member of, and in common with the other members of, an incorporated company which has more than 25 persons and of which he is not a director) shall, as soon as the relevant facts have come to his knowledge, disclose his interest at a meeting of the Board.

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"(2) A disclosure under Subsection (1), shall be recorded in the minutes of the Board and the member, shall –

- (a) not take part, after the disclosure, in any deliberation or decision of the Board in relation to the matter; and
- (b) be disregarded for the purpose of constituting a quorum of the Board in that deliberation or decision."

**8. FUNCTIONS OF THE BOARD (AMENDMENT OF SECTION 8).**

Section 8 of the Principal Act is amended –

- (a) in Paragraph (b) by repealing the words "provisionally registered as an engineer" and replacing them with the words "a provisionally registered engineer"; and
- (b) in Paragraph (c) by repealing the words "or a" and replacing them with the words "or as a"; and
- (c) in Paragraph (d) by repealing the words "the Society" and replacing them with the words "the Institution"; and
- (d) adding immediately after Paragraph (e), the following new paragraph:-

"(f) to conduct investigations into the activities of any person, Company, Statutory Body, Government Body or Organization that undertakes, or employs others to undertake professional engineering works (including design work, investigations and other investigation carried out offshore)."

**9. REGISTER OF PROFESSIONAL ENGINEERS (AMENDMENT OF SECTION 12).**

Section 12 of the Principal Act is amended in Subsection (2), by –

- (a) repealing from Paragraph (a) the month "March" and replacing it with the month "January"; and
- (b) repealing from Paragraph (b) the words "quarterly during the months of June, September and December" and replacing them with the words "as required, but normally each month."

**10. MINIMUM QUALIFICATION AND IDENTIFYING TITLES FOR REGISTRATION (AMENDMENT OF SECTION 13).**

Section 13 of the Principal Act is amended –

- (a) in Subsection (1) –
  - (i) by repealing the word "five" and replacing them with the words "the equivalent of four"; and

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- (ii) by repealing the words "academically qualified" and replacing them with the words "academically qualified and holds a responsible position in connection with professional engineering work at the time of application and annual renewal."; and
- (b) in Subsection (2), by repealing the words "he holds qualifications that would grant him Corporate Membership of the Society" and replacing them with the following:-
  - "he satisfies the qualification and experience requirements that would allow his election as a Member of the Institution."; and
- (c) in Subsection (3) –
  - (i) by repealing the word "full" and replacing it with the words "full as registered engineer"; and
  - (ii) by repealing the word "form" and replacing it with the words "form Reg. Eng."; and
  - (iii) by repealing the words "as set out in the Regulations."; and
- (d) in Subsection (4) by repealing the words "shall be provisionally registered until he does meet such requirements and the maximum period of provisional registration shall be 7 years" and replacing them with the following:-
  - "and is participating in the Institution's Graduate Professional Development Programme, unless exempted by the Board, shall be provisionally registered until he does meet such requirements."; and
- (e) by adding at the end thereof the following new subsection:-
  - "(5) The Board may withhold registration from an otherwise Qualified person on the grounds that the person is not a resident of Papua New Guinea."

**11. APPLICATION FOR REGISTRATION (AMENDMENT OF SECTION 14).**

Section 14 of the Principal Act is amended in Subsection (3), by repealing the word "fee" and replacing it with the words "fee and must be lodged at least two months prior to the commencement of the relevant engineering work."

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**12. EXEMPTION FROM REGISTRATION (AMENDMENT OF SECTION 17).**

Section 17 of the Principal Act is amended –

- (a) in Subsection (5) by repealing the words "for, and" and replacing them with the words "for at least two months prior to the commencement of the engineering work and may be"; and
- (b) in Subsection (6) by repealing the words "but no" and replacing them with the words "and the prescribed application".

**13. FRAUDULENT REGISTRATION (AMENDMENT OF SECTION 18).**

Section 18 of the Principal Act is amended in the penalty provision, by repealing the amount "K500.00" and replacing it with the amount "K1,000.00".

**14. CHANGE OF ADDRESS, ETC., TO BE NOTIFIED (AMENDMENT OF SECTION 19).**

Section 19 of the Principal Act is amended in Subsection (2) by repealing from the penalty provision, the amount "K20.00" and replacing it with the amount "K40.00".

**15. DEREGISTRATION OR SUSPENSION OF REGISTRATION (AMENDMENT OF SECTION 20).**

Section 20 of the Principal Act is amended in Subsection (1) –

- (a) by repealing from Paragraph (g), the word "Society" and replacing it with the word "Institution"; and
- (b) by repealing from Paragraph (h)(ii) the word "engineer" and replacing it with the words "engineer or as a provisionally registered engineer"; and
- (c) by repealing from Paragraph (h)(iii) the word "engineer" and replacing it with the words "engineer or as a provisionally registered engineer"; and
- (d) by adding at the end of Paragraph (h) the following new subparagraph:-  
    "(v) failing to comply with Section 19(1)."

**16. COMPLAINTS TO THE BOARD (AMENDMENT OF SECTION 21).**

Section 21 of the Principal Act is amended –

- (a) in Subsection (1), by repealing the words "engineer for improper professional conduct" and replacing them with the words "engineer or a provisionally registered engineer for improper professional conduct, any person, Company, Statutory Body, Government Body or Organization for a breach or breaches of the Act,"; and
- (b) in Subsection (2), by repealing the words "registered engineer", twice occurring, and replacing them with the words "registered engineer or a provisionally registered engineer or an individual, Company, Statutory Body, Government Body or Organization"; and
- (c) by repealing Subsection (3) and replacing it with the following:-

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"(3) in conducting the inquiry, the Board –

- (a) has the powers of a Commission of a Commission of Inquiry under the Commission of Inquiry Act (Chapter 31), but may otherwise determine its own powers when enquiring into complaints of improper conduct or breaches of the Act and must observe the rules of natural justice in carrying out an inquiry; and
- (b) is not bound by technical rules of evidence or of legal procedures, but may inform itself in a manner as it thinks fit."; and

(d) in Subsection (4), by repealing the words "prescribed period" and replacing them with the words "twelve months".

**17. BOARD TO RECORD ITS FINDINGS ON WHICH THE DECISION WAS MADE (AMENDMENT OF SECTION 22).**

Section 22 of the Principal Act is amended in Subsection (1) by repealing the words "the inquiry" and replacing them with the words "an inquiry".

**18. NEW SECTION 22A.**

The Principal Act is amended by inserting immediately after Section 22 the following new section:-

**"22A. POWER OF BOARD TO IMPOSE PENALTIES.**

"(1) Where the Board has made findings that an engineer has been guilty of improper conduct as an engineer, notwithstanding Section 20 and Section 21(4) of this Act, the Board may impose any one or more of the following penalties:-

- (a) admonish or reprimand the engineer; or
- (b) order the suspension of his registration; or
- (c) order the cancellation of his registration and order the removal of his name from the Register; or
- (d) order that his application for registration be refused; or
- (e) impose a monetary penalty not exceeding K10,000.00; or
- (f) order the engineer to pay compensation, in cash and kind, to the other person concerned; or
- (g) order the engineer to complete such course of education as the Board determines; or



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- (h) order that the engineer makes his practice and books of accounts relating to this practice available to such persons and at such times as the Board determines; or
- (i) order the engineer to report on the conduct of his practice at such times and in such form as the Board determines; or
- (j) order the engineer to take advice on the management and conduct of his practice from such persons and for such period as the Board determines; or
- (k) order the engineer not to accept work or to hold himself out as accepting work in the area of the practice of engineering specified by the Board; or
- (l) order that the engineer employ in his practice a member of a class of persons specified by the Board; or
- (m) order that the engineer not employ such persons as specified by the Board; or
- (n) order that the engineer perform work for such persons within such time and for such fees, if any, as the Board determines; or
- (o) order that, subject to conditions determined by the Board, the engineer waives any lien he possesses as an engineer; or
- (p) order that the engineer reduce his fees in respect of any work carried out by him where these fees are the subject of any inquiry by the Board; or
- (q) order that the engineer pay the cost of the hearing.

"(2) Where the Board has made findings that a person, Company, Statutory Body, Government Body or Organisation is guilty of a breach or breaches of this Act, it may impose any one or more of the following penalties:-

- (a) admonish or reprimand the individual or the party; or
- (b) order the registration or engineers; or
- (c) impose monetary penalties as specified in this Act; or
- (d) order the party or parties to pay the cost of the hearing."

**19. EMPLOYMENT OF REGISTERED ENGINEERS WHERE PUBLIC FUNDS ARE INVOLVED (AMENDMENT OF SECTION 23).**

Section 23 of the Principal Act is amended –

- (a) by repealing the heading to the section and replacing it with the following:-

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**"EMPLOYMENT OF REGISTERED ENGINEERS"; and**

- (b) in Subsection (1) –
- (i) by repealing the words "undertakes professional engineering" and replacing them with the words "undertakes or employs others to undertake professional engineering studies and"; and
  - (ii) by repealing the words "out offshore" and replacing them with the words "out offshore, where the total project value is in excess of K200,000.00"; and
  - (iii) by repealing the following words:-  
"using public funds or funds derived from taxation or by regulation either wholly or in part, or works funded privately that will be handed over to such bodies, where the estimated value of works is in excess of that specified in the Regulations"; and
- (c) by inserting immediately after Subsection (1), the following new subsection:-  
"(1A) All drawings and documentations for the construction of works approved under Subsection(1) shall be approved and signed by a registered engineer."; and
- (d) in Subsection (2), by repealing from the penalty provision, the amount "K100,000.00" and replacing it with the amount "K200,000.00"; and
- (e) in Subsection (3), by repealing the words "engineer is exempted from" and replacing them with the words "engineer may be employed under".

**20. PENALTY FOR EMPLOYING AN UNREGISTERED PERSON  
(AMENDMENT OF SECTION 26).**

Section 26 of the Principal Act is amended in the penalty provision by repealing the amount "K5,000.00" and replacing it with the amount "K10,000.00".

**21. BOARD MAY DIRECT PROSECUTIONS (AMENDMENT OF SECTION 27).**

Section 27 of the Principal Act is amended by repealing the words "may order" and replacing them with the words "may order the Institution".

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**22. FAILURE TO ATTEND OR PRODUCE DOCUMENTS (AMENDMENT OF SECTION 30).**

Section 30 of the Principal Act is amended –

- (a) in the penalty provision by repealing the amount "K200.00" and replacing it with the amount "K400.00"; and
- (b) in the default penalty provision by repealing the amount "K20.00" and replacing it with the amount "K40.00".

**23. REFUSAL TO BE SWORN OR GIVE EVIDENCE (AMENDMENT OF SECTION 31).**

Section 31 of the Principal Act is amended in the penalty provision by repealing the amount "K100.00" and replacing it with the amount "K200.00".

I hereby certify that the above is a fair print of the *Professional Engineers (Registration) Act 2007* which was made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *Professional Engineers (Registration) Act 2007* was made by the National Parliament on 19 April 2007 by an absolute majority as required by the *Constitution*.

Speaker of the National Parliament.

