

CHAPTER 61:06
ENGINEERS REGISTRATION
ARRANGEMENT OF SECTIONS

SECTION

PART I

Preliminary

1. Short title
2. Interpretation

PART II

The Engineers Registration Board

3. Establishment of Engineers Registration Board
4. Members not to be liable
- 4A. Objectives and functions of Board

PART III

The Registrar and the Registry

5. Appointment of Registrar and keeping of engineers' register
6. Inspection of register
7. Proof of documents

PART IV

Registration

8. Qualifications for registration
9. Temporary registration
10. Power to remove from and correct register
11. Restoration to the register
12. Powers to suspend registration, etc.
13. Procedure at inquiry
14. Failure to obey summons and refusal to give evidence
15. Appeals
16. Effect of registration
17. Restrictions on use of titles and claim to qualifications by non-registered person, etc.
18. Dishonest practices
19. Practising certificate for engineers
20. Regulations

PART V

Financial Provisions

21. Funding
22. Financial year
23. Accounts and audit
24. Annual Report

Schedule - Constitution and Proceedings of the Board

Act 17, 1998,
Act 19, 2008,
S.I. 16, 2009,
S.I. 35, 2009.

An Act to provide for the registration of engineers and for purposes connected therewith.
[Date of Commencement: 1st May, 2009]

PART I
Preliminary (ss 1-2)

1. Short title

This Act may be cited as the Engineers Registration Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"**Board**" means the Engineers Registration Board established by section 3;

"**Minister**" means the Minister responsible for administering this Act;

"**Register**" means the register of engineers kept in accordance with section 5(2), and includes all or any particular parts thereof as the context so permits or implies;

"**registered engineer**" means a person whose name is for the time being entered in the register as a registered engineer;

"**Registrar**" means the Registrar of the Board appointed in accordance with section 5(1).

PART II
The Engineers Registration Board (ss 3-4)

3. Establishment of the Engineers Registration Board

(1) There is hereby established a Board, to be known as the Engineers Registration Board, which shall have responsibility for regulating the activities and conduct of registered engineers in accordance with the functions and powers conferred upon it by this Act.

(2) The Board shall-

- (a) be a body corporate with perpetual succession and a common seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) for and in connection with the purposes of this Act, be capable of acquiring, holding and disposing of movable and immovable property in its corporate name; and
- (d) generally have such powers as are necessary for the proper exercise its functions under this Act.

(3) The provisions of the Schedule shall have effect as to the constitution and proceedings of the Board and otherwise in relation to the Board.

4. Members not to be liable

No member of the Board shall be personally liable for any act or omission of the Board done or omitted in good faith in the course of carrying out the responsibilities and functions of, or exercising the powers conferred upon, the Board.

4A. Objectives and functions of Board

(1) The objectives of the Board are to-

- (a) promote the highest standards of engineering practice in Botswana; and
- (b) protect the welfare and interest of the public in the engineering practice.

(2) The functions of the Board shall be to-

- (a) assess applications made to it under this Act;
- (b) register professional engineers and issue practising certificates;
- (c) monitor standards of engineering practice and ethics;
- (d) conduct or authorise inquiries regarding any alleged „professional misconduct of any registered engineer; and
- (e) prescribe the eligibility requirements for persons applying to be registered under this Act to practise professional engineering.

PART III
The Registrar and the Registry (ss 5-7)

5. Appointment of Registrar and keeping of engineers' register

(1) The Board shall appoint a Registrar of the Board, who may be a public officer, and 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

entitled to have his name entered therein shall be entered as soon as is practicable after his being accepted by the Board for registration, showing against his name-

- (a) the date of entry;
- (b) his address;
- (c) his qualifications;
- (d) the engineering discipline in which he is registered, that is to say, whether as civil engineer, mechanical engineer, electrical engineer, or as the case may require; and
- (e) such other particulars as the Board may from time to time direct.

(3) All changes in the particulars registered under subsection (2) shall be entered in the register by the Registrar.

6. Inspection of register

Any person may inspect the register and any documents relating to any entry therein, and may obtain from the Registrar a copy of or an extract from the register or any such document, on payment of the prescribed fee.

7. Proof of documents

(1) In any legal proceedings, a paper purporting to be a copy of or an extract from the register or any document kept by the Registrar, and purporting to be certified by the Registrar to be a true copy or extract thereof, shall be admissible as *prima facie* evidence of the contents of the register or such document.

(2) The Registrar shall not, in any legal proceedings to which he is not a party, be compellable-

- (a) to produce the register or any document kept or published by him, if its contents can be proved under subsection (1); or
- (b) to appear as a witness to prove any entry in the register, any matter recorded in the register, or any such document, unless the court for special cause so orders.

PART IV

Registration (ss 8-20)

8. Qualifications for registration

(1) Subject to this Act, a person shall be entitled, on making an application to the Board in the prescribed form obtainable from the Registrar upon request, and on payment to the Board of the prescribed fee, to be registered under this Act and to have his name entered in the register as a registered engineer if he is-

- (a) a member of an institution of engineers, the membership of which is recognised by the Board as furnishing a sufficient guarantee of the required academic knowledge of, and practical experience in, engineering; or
- (b) a person who is the holder of a degree, diploma or licence of a university or school of engineering which is recognised by the Board as furnishing sufficient evidence of an adequate academic training in engineering; and
- (c) in the opinion of the Board a fit and proper person to be registered as an engineer.

9. Temporary registration

(1) Where a person satisfies the Board-

- (a) that he is not ordinarily resident in Botswana;
- (b) that he is or intends to be present in Botswana in the capacity of an engineer for the express purpose of carrying out specific work for which he has been engaged; and
- (c) that he is, or immediately before entering Botswana was, in practise as an engineer in such a capacity as to satisfy the Board of his fitness to serve the public as a registered engineer,

the Board may, as it thinks fit, direct that such person shall be registered either for a period not exceeding one year or for the duration of any specific work.

(2) An application for registration under this section shall be on the prescribed form, obtainable from the Registrar upon request, and accompanied by the prescribed fee, and the

Board shall require an applicant to produce documentary evidence of his work or employment immediately prior to his entering Botswana, and may require him to appear before it for the purpose of considering his application.

(3) The registration of a person under this section shall subsist only for a period not exceeding one year, or for the duration of the work, as specified by the Board, and the decision of the Board as to whether or not the work has terminated shall be conclusive.

(4) A person registered under this section shall, in relation to the period or the work specified, and to things done or omitted in respect thereof, be treated as registered under this Act but in relation to other matters shall be treated as not so registered.

10. Power to remove from and correct register

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

- (a) failed to respond within a period of six months from the date of a request sent by the Registrar by prepaid registered letter to the address appearing in the register against his name, asking him 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, or proceedings under section 12, are being or are likely to be taken against him; or
- (c) been found by the Board to be guilty of such misconduct as is described in section 12.

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

Provided that where an allegation of fraud or mistake has been made the Registrar shall give the person involved the opportunity to answer that allegation in writing before he so acts.

(3) Except in the circumstances specified in subsection (1)(a) and in subsection (2), the removal of a person's name from the register shall be notified by the Registrar to the person concerned, by prepaid registered letter addressed to the address appearing in the register against his name immediately before the removal, and the Registrar shall give that person the opportunity of being heard before he effects such removal.

(4) Subject to the provisions of section 9, a person whose name has been removed from the register shall, from the date of such removal, cease to be registered for the purposes of this Act.

11. Restoration to the register

(1) Where the name of any person has been removed from the register under section 10, the name of that person shall not again be entered in the register except by direction of the Board.

(2) Where the name of any person has been removed from the register, or the registration of any person has been suspended in terms of section 12(1)(b), 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 name of that person be restored to the register; or
- (b) the suspension of the registration of that person be terminated.

(3) A direction given by the Board under subsection (2) may include provision for the date upon which restoration to the register or the termination of a suspension of registration 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.

12. Powers to suspend registration, etc.

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

- (a) caution or censure such registered engineer;
- (b) direct that, during such period as the Board may specify, his registration shall not have effect; or
- (c) direct that his name be removed from the register.

13. Procedure at inquiry

(1) Upon any inquiry held by the Board under this Act, the person whose conduct is being inquired into shall be entitled to a hearing or to be represented by a legal representative.

(2) For the purposes of proceedings at any inquiry held by it, the Board shall have power-

- (a) to administer oaths;
- (b) to summon persons to attend and give evidence; and
- (c) to order the production of documents and evidence.

(3) All summonses and orders issued under the hand of the chairman or vice-chairman of the Board shall be deemed to be issued by the Board.

(4) The chairman, or in his absence the vice-chairman, of the Board shall record or cause to be recorded a summary of any oral evidence given at an inquiry held by the Board.

(5) Subject to this section and any regulations made under section 21, the Board shall have power to regulate its own procedure at an inquiry held under this section.

(6) For the purposes of section 123 of the Penal Code, an inquiry held by the Board shall be deemed to be a judicial proceeding.

14. Failure to obey summons and refusal to give evidence

Any person upon whom a summons or order issued under section 13 has been served, who refuses or fails without sufficient cause to attend at the time and place mentioned therein, or refuses without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Board, or refuses or omits without sufficient cause to produce any documents in his possession or under his control which are specified in the order, shall be guilty of an offence and liable to a fine not exceeding P5 000:

Provided that every person giving evidence before the Board shall, in respect of any evidence given by him or any document produced by him, be entitled to all the privileges to which he would be entitled as a witness before the High Court.

15. Appeals

(1) Any person aggrieved by a decision of the Board to refuse to register his name, to suspend the 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.

(2) Any person who is aggrieved by a decision of the Board refusing to remove the name of a registered engineer from the register may appeal to the High Court against that decision.

(3) The Board may appear as respondent and be heard on any appeal against its decision and, for the purpose of enabling directions to be given as to the 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.

16. Effect of registration

Every person whose name has been entered in the register as a registered engineer shall, so long as his name remains in the register as a registered engineer, be entitled to adopt and use the style and title "Registered Engineer", or such contraction thereof as the Board may approve, and to offer his services to the public for gain or reward or by way of trade in the engineering discipline in which he is registered.

17. Restrictions on use of titles and claim to qualifications by non-registered person, etc.

(1) Any person who, not being a registered engineer-

- (a) falsely pretends to be such;
- (b) uses the style or title "Registered Engineer" in describing his occupation or his

business, or any other name, style, title or description implying, whether in itself or in the circumstances in which it is used, that such person is a registered engineer; or

(c) holds himself out, whether directly or by implication, to be a registered engineer, shall be guilty of an offence and liable to a fine not exceeding P25000 or to imprisonment for a term not exceeding three years.

(2) Any person who being registered under this Act in one or more disciplines, pretends to be, or acts as if he was, registered in another discipline, shall be guilty of an offence and liable to a fine not exceeding P25000 or to imprisonment for a term not exceeding three years.

18. Dishonest practices

Any person who-

- (a) fraudulently makes, or causes or permits to be made, any false or incorrect entry in the register or any copy thereof;
- (b) fraudulently procures or attempts to procure for himself or for any other person to be registered; or
- (c) knowingly and wilfully makes any statement which is false in any material particular, or which is misleading, with a view to gaining any advantage, concession or privilege under this Act, whether for himself or for any other person,

shall be guilty of an offence and liable to a fine not exceeding P25000 or to imprisonment for a term not exceeding three years.

19. Practising certificate for engineers

(1) No person other than an engineer employed by the Government or such other employer as the Minister may by notice in the *Gazette* exempt shall practise as an engineer in any year unless he is in possession of a practising certificate for that year issued by the Board in such form as may be prescribed entitling him to practise in the capacity or capacities specified in the form.

(2) An application by an engineer for a practising certificate shall be made to the Board in such form as may be determined by the Board stating the name and place of business of the applicant and the date of registration as an engineer, which application shall be signed by the applicant or his duly authorized agent.

(3) There shall be paid to the Board in respect of each practising certificate to be issued, such annual practising fee as may be prescribed.

(4) Every practising certificate issued shall have effect from the date on which it is issued and shall expire at the end of 31st December next after it is issued:

Provided that where the name of any engineer is removed from or struck off the roll, the practising certificate of that engineer shall expire forthwith.

(5) If any engineer fails to obtain a practising certificate for any year, the Board shall notify such engineer of the provisions of this section by means of a registered letter posted to him at his last known address, and if, within 90 days of the posting of such letter the engineer has not obtained such certificate, the Board shall remove the name of such engineer from the roll.

(6) Every engineer who has been issued with a practising certificate shall display that certificate in a conspicuous place at his place of business.

(7) Any person who has not been issued with a practising certificate or whose practising certificate has not been renewed shall, if he practices without such certificate, be guilty of an offence and shall be liable to a fine not exceeding P15000.

20. Regulations

The Minister may, after consultation with Board, make regulations, generally for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, any such regulations may provide for-

- (a) the conduct of the business of the Board and the procedure to be followed by the Board in any inquiry under this Act;

- (b) the duties of the Registrar;
- (c) the issue of certificates of registration;
- (d) the fees to be paid for anything which is to be, or may be, done under this Act;
- (e) the forms to be used under this Act;
- (f) the exemption of any persons or class of persons from all or any of the provisions of this Act, provided they comply with such conditions as may be prescribed; and
- (g) prescribing anything which under this Act is to be, or may be prescribed.

PART V

Financial Provisions (ss 21-24)

21. Funding

(1) The funds of the Board shall consist of-

- (a) grants and donations that the Board may receive;
- (b) annual fees;
- (c) application fees and other fees as shall be charged by the Board; and
- (d) income that the Board may receive from investments, rentals, sale of land or buildings.

(2) The Board shall use the funds acquired under subsection (1) to meet the costs incurred for its operations and shall use any surplus accrued for such purposes as it may determine.

(3) The Board shall manage its own budget through a subvention or grant from government until such time that the Board is able to source its own funding.

22. Financial year

The financial year of the Board shall be a period of 12 months ending on the 31st of March.

23. Accounts and audit

(1) The Board shall keep and maintain proper accounts and records in respect of every financial year relating to the assets, liabilities, income and expenditure of the Board, and shall prepare in each financial year, a statement of such accounts.

(2) The accounts of the Board in respect of each financial year shall within three months of the end thereof, be audited by an auditor appointed by the Board.

(3) The auditor shall report in respect of the accounts for each financial year, in addition to any other matter on which the auditor deems it pertinent to comment, whether or not-

- (a) the auditor has received all the information and explanation which, to the best of the auditor's knowledge and belief, were necessary for the performance of the auditor's duties;
- (b) the accounts and related records of the Board have been properly kept;
- (c) the Board has complied with all the financial provisions of this Act with which it is the duty of the Board to comply;
- (d) the statement of accounts prepared by the Board was prepared on a basis consistent with that of the preceding year and represents a true and fair view of the transactions and financial affairs of the Board.

(4) The report of the auditor and a copy of the audited accounts shall, within 14 days of completion thereof, be forwarded to the Board by the auditor.

24. Annual Report

(1) The Board shall within a period of six months of the financial year or within such longer period as the Minister may approve, submit to the Minister a comprehensive report on the operations of the Board during that year, together with the auditor's report and the audited accounts as provided for under section 22, and the Board shall cause such report to be published in such manner as the Minister may require.

(2) A report compiled in accordance with subsection (1) shall be laid before Parliament by the Minister within three months of receipt thereof.

SCHEDULE

CONSTITUTION AND PROCEEDINGS OF THE BOARD

1. Membership of Board

(1) The Board shall consist of seven members who shall be persons eligible for registration under this Act and resident in Botswana.

(2) The members of the Board shall be-

- (a) three persons appointed by the Minister, of whom not more than two shall be in the service of the Government; and
- (b) the President for the time being of the Botswana Institution of Engineers; and
- (c) three persons appointed by the Botswana Institute of Engineers, of whom at least two shall be from the private sector.

2. Tenure of office of Board member

(1) Every year one of the members of the Board in the service of the Government and one of the members not being in the service of the Government shall retire and the member to retire in each case shall be the one who has been in office longest; and where two or more members have been in office for the same length of time, in the absence of mutual agreement the member to retire shall be chosen by ballot.

(2) A member may resign by giving to the Minister notice in writing of his intention to do so.

(3) Retiring members shall be eligible for reappointment, subject to the recommendation of the Board, and provided that he shall not have served for more than 7 consecutive years .

(4) Casual vacancies shall be filled as they arise, and for the purpose of subparagraph (1) a member appointed to fill a casual vacancy shall be treated as if he were the member he was appointed to replace.

3. Election of chairman and vice-chairman of Board

(1) Members of the Board shall, at their first meeting, elect from among their number a chairman and a vice-chairman of the Board.

(2) The chairman and the vice-chairman shall each hold office for a period of one year from the date of his election, and may offer themselves for re-election.

(3) In the absence of the chairman, or in the event of his incapacity from illness or any other cause, the functions of the chairman shall be performed by the vice-chairman, and if the latter is also absent the members of the Board shall elect from among their number, someone to perform the functions of Chairman.

4. Meetings of the Board

(1) The chairman of the Board shall convene ordinary meetings of the Board at least every quarter, and shall appoint a suitable time, place and date for the holding of each such meeting.

(2) At least seven days' notice shall be given of any meeting of the Board except in the case of emergency.

(3) The chairman of the Board may convene a special meeting of the Board at any time, and shall cause a special meeting of the Board to be held within twenty-one days after receiving a written request to do so signed by not fewer than three members of the Board.

5. Quorum and voting at meetings

(1) A simple majority of members of the Board shall constitute a quorum at any meeting of the Board.

(2) All acts, matters and things authorized to be done by the Board shall be decided by resolution of the majority of members at meetings of the Board at which a quorum is present.

(3) Every member of the Board shall have one vote, and in the event of an equality of votes the person presiding shall have a second or casting vote in addition to his deliberative vote.

(4) Notwithstanding subparagraph (2), where the chairman so directs, a decision may be made by the Board without a meeting by circulation of the relevant papers to all the members, and by the expression in writing of their views, but any member may require that such a decision shall be deferred for consideration at a meeting of the Board.

6. Vacancies in Board

The validity of any proceedings of the Board shall not be affected by any vacancy among the membership, or by any defect in the appointment of a member.

7. Procedures at meeting

(1) Subject to the provisions of this Schedule and to any regulations made under section 21 of the Act, the Board may regulate its own procedure.

(2) Where any question of procedure arises at any meeting of the Board, it shall be decided by the

person presiding at that meeting, and such decision shall be final.

8. Seal of the Board and authentication

(1) The seal of the Board shall not be affixed to any instrument except in the presence of the chairman, or the vice-chairman, and of one other member of the Board.

(2) Any document of the Board not required by law to be under seal shall be sufficiently authenticated by the chairman or the vice-chairman of the Board, or by the Registrar.

9. Duties of Registrar

(1) The Registrar shall have custody of the common seal of the Board.

(2) The Registrar shall attend all meetings of the Board and, subject to the provisions of section 13 (4) of the Act, shall keep minutes of such meetings.

(3) The minutes of the meetings of the Board shall be signed by the person presiding at such meeting and shall be confirmed by the Board at its next meeting.

10 Accounts of the Board

(1) The Board shall keep or cause to be kept proper books and other records of its accounts, which shall be audited annually in such manner as the Minister may direct.

(2) No disbursements from the funds of the Board shall be made without the general or special authorization of the Board.

(3) All monies received on account of the Board shall be paid into an account kept in the name of the Board at such bank as the Minister shall direct, and all cheques drawn on such account shall be signed by the chairman and the vice-chairman of the Board.

(4) Any accumulated funds of the Board may be placed on deposit at a bank, or invested in such manner as the Board may determine.

11. Travel and subsistence expenses of Board members

Any reasonable travel or subsistence expenses incurred by a member of the Board in attending meetings of the Board or in undertaking any journey on the business of the Board, duly authorized by resolution of the Board, shall be reimbursed to such member out of the funds of the Board.

12. Application for registration

(1) Every application for registration shall, so far as is practicable, be brought before the Board at its first meeting after the receipt of the application, and the Board may consider such application or refer it to a subcommittee, whose report thereon shall be considered at the next meeting of the Board thereafter.

(2) The Board may require an applicant for registration to furnish such further information, or evidence of eligibility for registration, as it may think fit, and may require the applicant to attend personally before the Board or a subcommittee thereof at his own expense, and the Board may refuse to consider the application of any person who fails to comply with a requirement made under this paragraph.

(3) The decision of the Board upon an application for registration shall be communicated to the applicant by the Registrar by letter sent to the address stated in the application.

13. Certificates of registration

(1) Upon the completion of the entry of the name of a person in the register, a certificate of registration shall be prepared under the seal of the Board and such certificate (which shall nevertheless remain the property of the Board) shall be delivered to the person concerned.

(2) Where the name of any person is removed from the register, or the Board has directed that the registration shall not have effect for a specified period, the certificate of registration shall forthwith be delivered up to the Registrar by the person to whom it was issued or, if such person has died, by his personal representative.

(3) Where a certificate of registration is delivered up under paragraph (2) the Registrar shall-

(a) in the case of suspension of registration, hold the certificate until the expiration of the period of suspension, and thereafter return it to the person concerned;

(b) in the case of removal of a name from the register otherwise than on the death of the person concerned, cancel the certificate; or

(c) in the case of a deceased person, endorse the certificate with a note of the death, and thereafter return it to the person by whom it was delivered up.

(4) Where the Registrar is satisfied that a registration certificate has been lost, mutilated or destroyed he may, upon payment of the prescribed fee, furnish a duplicate of the certificate to the person to whom the original certificate was issued.

(5) Any person who fails to deliver up a certificate as required by subparagraph (2) shall be guilty of an

offence and liable to pay a fine not exceeding P5000.

14. Appointment of committees, etc.

(1) The Board may appoint committees and subcommittees to consider such matters or to perform such duties as it may direct.

(2) Every committee and subcommittee appointed under this paragraph shall consist of members of the Board together with such other persons as the Board, or the committee or subcommittee concerned, with the approval of the Board, may co-opt.