

THE ENGINEERS BILL, 2009

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Part I - Preliminary

Part I – Short title and commencement

1. This Act may be cited as the Engineers Act, 2009.
2. This Act shall come into operation on such a date as the Minister may, by notice in the Gazette, appoint, and different dates may be appointed for the coming into operation of different provisions.

2- Interpretation

In this Act, unless the context otherwise requires-

“Annual Practising License” means a license issued by Engineers Registration Board in accordance with Section 21 of this Act.

“ Accredited Checker” means a person registered under Section 34(2) of this Act

“Accreditation” means the process by which a qualification, a course or programme comes to be accepted by an external body as of a satisfactory quality and standard.

“ Assets” means all properties, both movable and immovable, tangible and intangible, and claims against others that may be applied to cover the liabilities of a person or business. Assets can include cash, stock, inventories, property rights, and goodwill.

“Code of Practice” means the principles and rules that are used to judge the appropriateness of particular conducts or behavior.

“ Code of Ethics” means sets of standards for engineers' obligations to the public, their clients, employers and the profession encompassing right conduct and good life.

“ Consulting Engineer” means a professional engineer whose name is for the time being entered in the register as a consulting engineer in a particular engineering discipline as established by PART III.

“Continuous Professional Development” means the planned acquisition of knowledge, experience and skills necessary for the development of the engineer.

“Employ” means to engage any person to serve as an employee for a period of time, and includes a contract of apprenticeship and indentured learner-ship.

“ Employer” means any person, public body, firm, corporation or company who or which has entered into a contract of service to employ any individual and includes the agent, foreman, manager or factor of such person, public body, firm, corporation or company.

“ Employment” means a written contract for service specified that states particulars of employment which shall give the remuneration, scale or rate of remuneration and details of any other benefits.

“Engineer” means a person registered under this Act as Professional Engineer or Consulting Engineer and who holds an Annual Practicing License.

“ Engineering Consulting Firm” means a sole proprietorship, partnership or body corporate providing engineering professional services.

“ Engineering” means the creative application of scientific principles to design or develop structures, machines, apparatus, or manufacturing processes, or works utilizing them singly or in combination; or to construct or operate the same with full cognizance of their design; or to forecast their behavior under specific operating conditions; or aspects of intended functions, economics of operation and safety to life and property.

“Engineers Registration Board” means the Board established under PART II of this Act.

“ Engineering project” means a project whose inception, planning, designing, execution, supervision and management require knowledge and experience of engineering science, technology and management.

“ Engineering organization” means organization whose functions involve the planning, designing, processing and the delivery of engineering products and services.

“ Firm” means a sole proprietorship or partnership or company established by person or bodies fulfilling the requirement of this Act.

“Minister” means the Minister for the time being responsible for Engineering matters.

“Professional Engineer” means a person whose name is for the time being entered in the register as a professional engineer as established by PART III of this Act;

“Professional Engineering Works” includes professional service, consultation, investigation, evaluation, planning, designing or responsible for supervision of construction or operation and maintenance in connection with any public or privately owned public utilities, building, machines, equipment, processes, works or projects where public interest and welfare, or the safeguarding of life, public health or property is concerned or involved, and that requires application of engineering principles and data.

“Professional Engineering Services” means engineering services and advice in connection with any feasibility study, planning, survey, design, sketch, drawing, specifications, construction, commissioning, operation, maintenance, supply of specialized engineering equipment and management of engineering works or projects and includes any other engineering services approved by the Board.

‘Consulting Engineering Services’ includes consultancy and advisory services relating to independent professional engineering works, services or goods and selling or supplying for gain of reward any plan, sketch, drawing, design, specification or other documents relating to any professional engineering work, service or good with a liability to be sued.

“ Register” means register of Professional Engineers, Consulting Engineers , Engineering Consulting Firms and Graduate Engineers kept under the provisions of Section 9 of PART II and includes all or any particular part thereof as the context so permits or implies.

“Registrar” means the Registrar of the Board appointed under the provisions of Section 8 of PART II of this Act.

“ Private practice” means provision of engineering consultancy services for financial gain by a registered professional engineer as an individual professional registered engineer or in a consulting engineering firm.

“ Technical Institutions” means organizations, agencies or Ministries that-

- employ engineers and use their services.
- are responsible for works, water, communication, transport, agriculture, mining, local government, science and technology, environment, industry and trade pursuant to the Eleventh Schedule.

“Trade” means the provision of any engineering service for financial gain by an individual Professional registered Engineer or by Consulting Engineering firm.

“ Graduate Engineer” is a person who is a holder of a degree, diploma or licence of a university or school of engineering which may be recognized for the time being by the Board as furnishing sufficient evidence of an adequate academic training in engineering.

Part II - The Engineers Registration Board

3. Establishment of the Engineers Registration Board

3(1) There is established a Board to be known as the Engineers Registration Board, which shall be a body corporate with perpetual succession and a common seal, and which shall, subject to this Act, be capable in its corporate name of;

- a) suing and being sued;
- b) taking, purchasing or otherwise acquiring, holding and disposing of movable and immovable property,
- c) borrowing money with the approval of the Minister and the Minister responsible for finance, and
- (d) carrying out all such other things or acts for the proper performance of its functions under this Act as may lawfully be done by a body corporate.

(2) The Board shall have responsibility for regulating the activities and conduct of engineers and engineering consulting firms in accordance with the functions and powers conferred upon it by this Act.

4. Membership of the Board

4(1) The Board shall consist of nine (9) members who shall be persons registered as Professional Engineers under this Act, and shall consist of the following members:-

- a) Chairman who shall be appointed by the Minister from amongst the members appointed under paragraph (b) and (c) below:

b) five persons appointed by the Minister from:

- i) one from Kenya Government department or office dealing with engineering matters;
- ii) one from Public Corporation dealing with engineering matters;
- iii) one from a University in Kenya accredited by the Board.
- iv) two from Private Sector.

c) four persons nominated by the Institution of Engineers of Kenya to represent different engineering disciplines one of whom shall be the chairman of the Institution of Engineers of Kenya.

4(2) The Registrar shall be an *ex officio* Member of the Board.

4(3) The persons referred to in paragraph (b) and(c) shall be appointed by the Minister from among members nominated by the organizations set out in First Schedule.

5. Duration of office of Members of Engineers Registration Board

- 1) The Chairman and members of the Board shall hold office continuously for a term of 3 years renewable once subject to other provisions of this Act.
- 2) Three members of the Board shall retire at the end of every three years, and shall be eligible for re-appointment for another term not exceeding three years.
- 3) No member of the Board shall be personally liable for any act or omission of the Board done in good faith in the course of carrying out the responsibilities and duties, or in exercising the powers conferred upon the Board under this Act.

6. Functions and powers of the Engineers Registration Board

- 1) The Board shall have responsibility for registration of Engineers and regulation of Engineering Professional Services and regulating the training, development, and practice of engineers.
- 2) For the purposes of discharging the responsibilities described in (1) above the Board shall have the following powers and functions:-
 - a) receive, consider and make decisions on applications for registration.

- b) maintain and keep a Register of Professional Engineers, Consulting Engineers and Engineering Consulting firms.
- c) publish the names of Professional Engineers, Consulting Engineers and Engineering Consulting firms as appropriate.
- d) issue Annual Practicing Licenses to Professional Engineers, Consulting Engineers and Engineering Consulting firms.
- e) order a written warning or reprimand, the imposition of a fine, suspension, cancellation, removal or reinstatement in accordance with Sections 17 and 18 of this Act.
- f) Appoint and dissolve committees in accordance with the provisions of this Act.
- g) publish and disseminate materials produced in connection with its works and activities.
- h) represent engineers in Regional, National and International fora on issues relating to registration and the practice of engineers.
- i) carry out inquiries on matters pertaining to registration of Professional Engineers, Consulting Engineers and Engineering Consulting firms.
- j) carry out inquiries on matters pertaining to Professional Engineering registration, training and practice.
- k) enter and inspect sites where construction, installation, erection, alteration, renovation, maintenance, processing or manufacturing works are in progress for the purpose of verifying that:-
 - 1) engineering activities are undertaken by engineers registered in appropriate categories and engineering consulting firms.
 - 2) standards and professional ethics and relevant health and safety aspects are observed.
- l) assess, approve or reject engineering qualifications of foreign persons intending to offer engineering services and works in Kenya.

- m) enter and inspect business premises for verification purposes or for monitoring works, services and goods rendered by professional engineers.
- n) recommend suspension of any works, projects, services, installation process or any other engineering activities, which are done without meeting the required standards.
- o) take any legal action against persons or firms that practice engineering without being registered by the Board.
- p) take legal action against engineers and engineering consulting firms that practice engineering or offer consulting services in areas outside their competence .
- q) set penalties on engineers, persons, firms and engineering consulting firms found guilty of professional misconduct or for contravening any provision of this Act.
- r) accredit and approve engineering programs public and private universities and other tertiary level educational institutions offering education in engineering acceptable to the Board for the purposes of registration of Graduate Engineers.
- s) set standards and approve curricula of training engineers in management, marketing, professional ethics, environmental issues, safety, legal matters or any other relevant field.
- t) conduct examinations for the purposes of registration and issue certificates, and other awards of the Board to successful candidates.
- u) provide facilities and opportunities for learning, professional exposure and skills acquisition, and cause to be held continuing professional development programmes for engineers.
- v) plan, arrange, coordinate and oversee the professional training and facilitate internship of Graduate engineers.
- w) collaborate with relevant institutions on the programs for training of engineers and facilitate the same.

- x) collaborate with engineering training institutions, professional associations and other organizations in matters relating to training, professional development of engineers and other relevant bodies.
 - y) determine the scale of fees to be charged by Professional Engineers and Engineering Consulting Firms for professional engineering services rendered from time to time.
 - z) to appoint committees or arbitrator to hear and determine such disputes relating to professional conduct or ethics of professional engineers and engineering consulting firms.
 - aa) issue, maintain and enforce the Code of Ethics for engineers and regulate the conduct and ethics of engineering profession.
 - bb) carry out such other functions related to the implementation of this Act.
- 3) The Board may delegate some of its functions to professional associations, agencies or organizations, but shall set standards and ensure enforcement and compliance.
- 4) Subject to the provisions of Section 7(2) the Board may 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 establishment of committees and the appointment of members thereto.
 - b) the duties of the Registrar.
 - c) the issuing and renewing of certificates of registration and Annual Practising Licences
 - d) the fees to be paid for in accordance with any provisions under this Act.
 - e) the documents to be used under this Act.
 - f) prescribing anything which under this Act may be prescribed.

- g) proper keeping of books and other records of accounts which shall be audited annually in such manner as the Board may direct.

5) Prepare regulations for Gazettement in the Kenya Gazzette by the Minister.

6) The Second Schedule shall apply with respect to conduct of the business and affairs of the Board.

7. Conduct of business of the Engineers Registration Board

- 1) The business and the affairs of the Board shall be conducted in accordance with Second Schedule.
- 2) Except as provided for in the Second Schedule, the Board may regulate its own procedure.

8. Provisions in relation to the Registrar.

- 1) The Minister shall appoint a Registrar of the Board who shall hold and vacate office in accordance with the terms of the instrument of his appointment to that office.
- 2) The Registrar, who shall be a public official, shall be the Chief Executive Officer and the Secretary to the Board.
- 3) The Registrar shall be an *ex officio* member of the Board.
- 4) The Registrar shall be responsible for:-
 - (a) maintenance of the Register of persons registered in accordance with this Act.
 - (b) signing and issuance, renewal, cancellation of certificates and licenses as directed by the Board.
 - (c) keeping all documents and records of the Board.
 - (d) preparation of all documents due for gazettement as directed by the Board.
 - (e) custody of the Board's assets.

- (f) keeping Minutes of the Board's meetings.
 - (g) enforcing decisions of the Board.
 - (h) keeping the seal of the Board.
- 5) In addition to the functions which he is required to exercise and perform by or under this Act, the Registrar shall exercise and perform functions which the Board may determine from time to time.

9. Provisions in relation to the Register

- 1) A Register shall be kept and maintained by the Registrar in which the name of every person entitled to have his name entered therein shall be entered as soon as is practicable after being accepted by the Board for registration.
- 2) The Register shall show the following details against the name of a person or firm whose name is entered in the Register:
 - a) date of entry.
 - b) address.
 - c) qualifications.
 - d) Category.
 - e) Engineering discipline in which he is registered, whether as civil engineer, mechanical engineer, electrical engineer, agricultural engineer, or as the case may require.
 - f) Nationality.
 - g) Such other particulars as the Board may from time to time direct.
- 3) The Register shall be kept and maintained in such a manner as the Board may prescribe, provided that details of registration of each Professional Engineer or engineering consulting firm registered in the register shall clearly indicate the branch or branches of engineering in which he or it is qualified to practice and particulars or restrictions imposed by the Board.

- 4) All changes in particulars of any registered name as under Sub-Section 9(2) shall be entered in the register by the Registrar.
- 6) The Registrar shall cause to be published in the Kenya Gazette, after registration, the particulars of each person and or firms registered under one of the categories of registration, subject to the directions of the Board.
- 7) The Registrar shall cause to be published in the Kenya Gazette not later than the 31st day of March of every year, particulars of all persons and, or firms registered, or deleted such particulars of such person and, or firm under the categories of registration.
- 8) A publication under Sub-Section (5) and (6) shall be *prima facie* evidence that a person or firm named therein is registered under this Act, and the deletion from the register of the name of any person or firm notified by such publication, or the absence of the name of any person or firm from such publication, shall be *prima facie* evidence that such person or firm is not so registered.
- 9) Any person may inspect the register and may obtain from the Registrar a copy of or an extract from the register, on payment of the prescribed fee.
- 9 (i) In any legal proceedings, a paper purporting to be a copy of an extract from the register kept or published by the Registrar, and purporting to be certified from the Registrar to be a true copy or extract, shall be admissible as *prima facie* evidence of the contents of the register.

(ii) No process for compelling the production of the register kept by the Registrar shall issue from any court except with the leave of that court, and any such process which is so issued shall bear a statement that it was issued with the leave of the court.

(iii) The Registrar shall not, in any legal proceedings to which he is not a party, be compellable :-
 - (a) to produce the register if its contents can be proved under Sub-Section (5) and (6); or
 - (b) to appear as a witness to prove any entry in the register, of the matters recorded in the register, unless the court orders the same on special cases.

Part III - Registration

10. Registration of Professional Engineers and Consulting Engineers

10(1) Every application for registration as a Professional Engineer and or Consulting Engineer under this Act shall:-

- a) Be in the English language in a form, which shall be availed by the Registrar upon request.
- b) Be addressed to the Registrar.
- c) State the qualifications upon which the application is based and have attached copies of such certificates or other documents as are necessary evidence for those qualifications.
- d) Be accompanied by a non- refundable fee set by the Board from time to time.

(2) 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 for consideration by the Board.

(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 within twenty one working days from the date of the Boards decision.

(4) Subject to the provisions of this Act, a person shall be entitled, on making an application to the Board in the prescribed form 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 under one or more of the following categories:

- i. Professional Engineer
- ii. Consulting Engineer

provided the applicant meets the requirements for registration in the category and is a Corporate Member of the Institution of Engineers of Kenya.

- (5) Subject to the provisions of this Act, a person shall be entitled, on making an application to the Board in the prescribed form 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 Professional Engineer if he:
- (a) is registered as Graduate Engineer under has obtained practical experience as prescribed under section 10 (2)
 - (b) has passed a professional assessment examination conducted by the Board
 - (c) is a Corporate Member of the Institution of Engineers of Kenya
 - (d) has complied with all the requirements of the Board
- (6) Subject to the provisions of this Act, a Professional Engineer shall be entitled on making an application to the Board in the prescribed form 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 Consulting Engineer if-:
- a) He has practiced in a specialized engineering field as a Professional Engineer for a period determined by the Board and ;
 - b) He has satisfied the Board as to his having achieved a standard of competence to enable him to practice as a Consulting Engineer in a particular specialization.
- (7) A Consulting Engineer shall enjoy all the privileges of a Professional Engineer.

11 Registration of Graduate Engineers

- 1) Subject to this Act, a person shall be entitled on making an application to the Board in the prescribed form 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 Graduate Engineer if is the holder of a degree, diploma or licence of a university or school of engineering which may be recognized for the time being by the Board as furnishing sufficient evidence of an adequate academic training in engineering.
- 2) Subject to this Act, a person who is registered as Graduate Engineer under Section 11(1) shall be required to obtain such practical experience as may be

prescribed by the Board in order to be entitled to apply for registration as a Professional Engineer under Section 10.

- 3) Subject to this Act, only a citizen or permanent residence of Kenya may qualify for registration as Graduate Engineer.
- 4) Every person whose name has been entered in the Register as a registered Graduate Engineer shall, so long as his name remains in the Register as registered Graduate Engineer, may offer his services for employment in the Engineering discipline in which is registered.

12 General Provisions relating to Registration

- 12(1) Upon the completion of the entry of the name of a person in the Register a certificate of registration shall be passed under the seal of the Board and such certificate, which shall nevertheless remain the property of the Board shall be issued to the person concerned. The Board may issue other identification documents valid for a specified period and such documents shall remain the property of the Board.
- (2) Where the Board has suspended the registration of any person for a specified period, the certificate of registration and any other document shall forthwith be delivered to the Registrar by the person so suspended. The Registrar shall publish such suspension in the Kenya Gazette, hold the certificate and any other document until the expiration of the period of suspension.
- (3) Where the name of any person is removed from the Register, the Certificate of Registration and any other document shall forthwith be returned by such person and cancelled by the Registrar and such cancellation shall be published in the Kenya Gazette.
- (4) In the case of a deceased person, the Registrar shall endorse the Register with a note of death.
- (5) Where the Registrar is satisfied that a registration certificate or any other document has been lost, mutilated or destroyed he may, upon payment of a fee set by the Board from time to time, furnish a duplicate of the certificate or any other document to the person to whom the original certificate or documents were issued.

- (6) Any person who without reasonable cause fails to deliver a certificate or any other document within twenty one working days upon demand as required by paragraph 12(2) and 12(3) shall be guilty of an offence and liable to a fine as stipulated in schedule IV.

13 -Registration of Engineering Consulting Firms

13(1) Every application for registration of Engineering Consulting Firm under this Section of the Act shall:-

- a) be in the English language in a form which shall be obtained from the Registrar upon request
 - b) be addressed to the Registrar
 - c) be accompanied by a non refundable fee set by the Board from time to time
 - d) submit registration certificate of business name or Certificate of Incorporation of the Firm
 - e) have at least one Partner/Director registered as Consulting Engineer who has in force an Annual Practicing Licence in the specified disciplines
 - f) provide company profile of activities
 - g) provide curriculum vitae of Partners and or Directors
 - h) agree that the Board may visit to verify the suitability of the firm for the purpose of registration.
- (2) Every Engineering Consulting Firm with more than fifty one percent of its shares held by Kenyan citizens shall upon making application be considered for registration as local Engineering Consulting Firm. Registration will cease if local equity falls below fifty one percent.
- (3) An Engineering Consulting Firm with more than fifty one percent of its shares belonging to non-citizens shall upon making application be considered for registration as foreign Engineering Consulting Firm.
- (4) In every engineering discipline in which an Engineering Consulting Firm is Desirous of practicing there shall be at least one registered Consulting Engineer

who has in force an Annual Practicing Licence in that discipline working for the firm.

- (5) The application shall be accompanied by fee of such amount as the Board may prescribe.
 - (6) The Board may require the applicant to furnish such further information or evidence of eligibility for registration as it may deem fit and may require the principal of the firm to appear in person for an interview before the Board.
 - (7) The decision of the Board upon an application shall be final and shall be communicated to the applicant by the Registrar using the address on the application form within twenty one working days from the date of the Board's decision.
 - (8) The Board may register Engineering Consulting Firms in different classes as it may deem fit.
- 9(1) subject to the provisions of this Act, a firm shall be entitled, on making an application to the Board in the prescribed form and on payment to the Board of the prescribed fee, to be registered under this Act and to have its name entered in the register as an Engineering Consulting Firm, if it meets the following requirements:-
- a) At least one of the Partners or Principal Shareholders of the firm or company is registered as a Consulting Engineer who has in force an Annual Practicing Licence under this Act.
 - b) A person or body of persons shall not be registered as a Consulting engineering firm unless at least 51% of the shares are owned by Professional Engineers or Consulting Engineering firm registered by the Board.
 - c) Registration of Consulting Firms shall be made in various classes or categories based on criteria as shall be established by the Board.
 - d) Fulfills the conditions stipulated under Sub-Section 13(6) in the case of its key Engineering Partners and or Directors and any other conditions which may, from time to time, be prescribed by the Board.

14 - Registration of Foreigners and Foreign Consulting Engineering Firms.

14(1) No foreign person or body of persons shall be registered as Professional Engineer or Consulting Engineer or Engineering Consulting Firm unless;

(e) In the case of a natural person ,he possess the necessary qualifications which is recognised for the practice of engineering as a professional engineer in the country where he normally practices and that immediately before entering Kenya was in practice as a Professional Engineer.

(a) In the case of a natural person, he is a resident of Kenya with a valid working permit.

(b) In the case of a company, it is incorporated in Kenya and has a minimum of 25% of its shares owned by the Kenya citizens.

14(2) If the conditions stipulated in Sub-Section 14(1) are not fulfilled, the person or firm may be considered for temporary registration.

14(3) For the purpose of this section “foreign engineer” means an Engineer who is not a citizen or a permanent resident of Kenya.

15 - Temporary Registration

15(1) A foreign Engineer may be considered for registration as a Temporary Engineer if he satisfies the Board:-

(a) that he is not ordinarily resident in Kenya.

(f) that he intends to be present in Kenya in the capacity of Professional Engineer for the express purpose of carrying out specific work.

(g) that he possess the necessary qualifications which is recognised for the practice of engineering as a professional engineer in the country where he normally practices and that immediately before entering Kenya was in practice as a Professional Engineer.

(2) An application for registration under this section shall be in the prescribed form and accompanied by the prescribed fee as determined by the Board, and the Board may require an applicant to appear before it for considering his application and shall require every applicant to produce documentary evidence of his work and or employment immediately prior to entering Kenya.

- (3) Registration of a person under this Section shall continue only for the period or for the duration of the work 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 duration of 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.
- (5) If the expertise skills are not available in Kenya, the applicant must notify the Board.
- (6) The employer of the applicant shall provide evidence that the locals shall be trained to fill the skills gap.
- (7) The Board may approve temporary registration for such period not exceeding one(1) calendar year and may renew the registration as it may deem fit.

16 - Effect of Registration

- 16(1) Every person whose name has been entered in the register as a Professional Engineer shall, so long as his name remains in the register as an Engineer (Eng), be entitled to adopt and use the style and title Professional Engineer or such contraction thereof as the Board may approve, and to offer his services in the way of trade or for employment in the engineering discipline in which he is registered.
- (2) Every person whose name has been entered in the register as a Consulting Engineer, shall so long as his name remains in the register as a Consulting Engineer (C.Eng) be entitled to adopt and use the style and title Consulting Engineer after his name or such contraction thereof as the Board may from time to time approve and may offer his services to the public for gain or reward or by way of trade or for employment in the engineering discipline and grade in which he is registered.
- (3) Professional Engineers and Consulting Engineers may have the sole discretion of using the title Engineer (Eng.) before their names.

17 - Powers to remove a person or firm from the Register by the Board

17(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 within a period of six months from the date of an inquiry sent by the Registrar by prepaid registered letter to the last known address appearing in the Register against his name, to notify the Registrar of his current address and activities; or
- (b) requested that his name be removed from the Register, in which case such person may be required to satisfy the Board by correct affidavit lodged with the Registrar that no criminal proceedings under Section part VI (E) are being or are likely to be taken against him; or
- (c) been found to be guilty of such misconduct as is described in Miscellaneous Provisions under Section 34 of this Act or;
- (d) failed to renew the Annual Practising Licence issued by the Board enabling him to practice as a Professional Engineer, Consulting Engineer or Engineering Consulting Firm within a period of three months from the date of expiry of the previous licence.
- (e) not satisfied requirements for Continuing Profession Development for the time being in force.
- (f) been found by the Board to be guilty of misconduct or breach of Code of Ethics as issued by the Board.
- (g) any Professional Engineer or Engineering Consulting Firm whose registration has been effected by reason of any mistake or error made by the Board in considering his or its application for registration
- (h) any Professional Engineer who has died, or engineering Consulting Firm which has ceased to practice or wound up by the court order.
- (i) if he is convicted of any offence, including offences involving false or negligent certification, fraud, dishonesty or moral turpitude in Kenya or elsewhere;
- (j) if he offers or accepts any commission which in the opinion of the Board is an illicit commission;

- (k) if whilst acting in his professional capacity, he at the same time without disclosing the fact in writing to his client, is a sole proprietor, partner, director or member of or substantial shareholder in or agent for any contracting or manufacturing company or firm or business or has any financial interest in any such company or firm or business, with which he deals on behalf of his client;
- (l) if he is found to be of unsound mind;
- (m) if he is found to be incapable or no longer able to perform his professional duties effectively;
- (n) if he becomes bankrupt;
- (o) if he is found by the Board to have contravened, or failed to comply with this Act or any regulations made there under;
- (p) if he fails to observe any conditions or restrictions subject to which he is registered;
- (q) if he is found guilty by the Board of any act or conduct which in the opinion of the Board is infamous or disgraceful;
- (r) if he procures, or assists in procuring, or is knowingly a party to procuring by fraud or misrepresentation, the approval of the Board for a sole proprietorship, partnership or body corporate to be registered as an Engineering Consulting Firm;
- (s) if he conceals or assists in concealing from the Board the existence of any facts or circumstances which, if known, would entitle the Board to cancel the registration of a Firm, in which he is a sole proprietor, partner, director or shareholder;
- (t) if he contravenes, or fails to perform, or assists in the contravention of, any terms, conditions or restrictions imposed by the Board when registering a Firm
- (u) if he causes or permits or suffers any sole proprietorship, partnership or body corporate in which he is a sole Proprietor, Partner, Director or Shareholder to practice as an Engineering Consulting Firm prior to its registration by the Board.

- (v) if he causes or permits or suffers any Engineering Consulting Firm in which he is a sole proprietor, partner, director or shareholder to continue to practice as an Engineering Consulting Firm after the Board has suspended or cancelled its registration or
- (w) if he fails to discharge his professional duties with due skill, care and diligence.
- (2) For the purpose of this Act any change in address must be communicated to the Registrar within three months of such change by registered mail.
- (3) Except in the circumstances specified in Sub-Section 17(1) and in Sub-Section 17(2), the removal of a person's name from the Register shall be notified by the Registrar to the person or the Firm by prepaid registered letter addressed to the address appearing in the Register against his name.
- (4) Subject to Section 17, a person or Firm whose name has been removed from the Register shall cease from the date of such removal to be registered for the purposes of this Act.
- (5) Pursuant to Sub-Section 17 (1) the Board may order one or any combination of the following –
- a) the issuance of a written warning or reprimand;
 - b) the imposition of a fine for an individual not exceeding Kenya Shillings Two Hundred and Fifty Thousand and for a Firm not exceeding Kenya Shillings Three Million;
 - c) the suspension of registration for a period not exceeding two years;
 - d) the cancellation of registration.

18 - Reinstatement to the Register

- 18(1) Where the name of a person has been removed from the Register under Section 17, the name of that person shall not be reinstated in the register except by direction of the Board.

- (2) Any Professional Engineer, whose name has been removed from the Register for failure to renew his or her registration for a period of not more than three years shall be reinstated as soon as he or she has notified the Registrar of his or its desire to be reinstated and upon payment of such fees as may be prescribed and satisfying such conditions as may be determined by the Board, and the Registrar shall issue a certificate of registration to him or it.
- (3) Any Professional Engineer or Engineering Consulting Firm whose name has been removed from the Register pursuant to an order of the Board shall, if his or its appeal is allowed, forthwith be reinstated and the Registrar shall issue a Certificate of registration to him or it.
- (4) 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 Section 18(1) and Section 17, 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 deems fit, direct that:-
 - a) the removal from the register be confirmed and direct the surrender of the practicing licence and Certificate of registration within fourteen days after notification to him or it by registered post; or
 - b) the name of that person be reinstated in the Register; or
 - c) the effect of suspension be lifted.
- (5) A direction given by the Board under Sub-Section 18(1) may include provision for the date upon which a reinstatement to the register or the termination of a suspension of the effect of registration shall take effect and for the payment by the person concerned of such fees as the Board may determine from time to time.
- (6) Any person whose name has been removed from the register pursuant to section 18 and who has not appealed against that order or whose appeal has been dismissed may after the expiry of not less than six months from the date of order of cancellation or from the date of the decision of the appeal apply for reinstatement. The Board upon receipt of satisfactory evidence of proper reasons for his or its reinstatement and upon reimbursement to it of all expenditure incurred by it arising out of the proceedings leading to cancellation of its or his registration and upon payment of prescribed fees, shall issue a certificate of registration to him or it.

19 - General provisions in relation to exemptions

19(1) Nothing in this Act shall prohibit or render liable to prosecution any person who is registered in accordance with this Act to:-

- a) enter for the purpose of or in the course of practicing as an engineer, into partnership with other persons not registered in accordance with this Act.
- b) engage in other professions or trades provided that he is competent to engage in such professions or trades and also provided that he does not contravene the provisions of this Act.

c) obtain registration under other Acts.

(2) Nothing in this Act shall prohibit or render liable to prosecution any person who is registered in accordance with the provision of other Acts from performing any function or exercising any power which he may properly perform in accordance with his qualification and registration.

3) Nothing contained in any written Law shall prevent any Professional Engineer or Engineering Consulting Firm from making valuations of any structure, plant, machinery and equipment in connection with his or its professional practice.

20 - Restriction on use of titles or words to describe non-registered persons

20(1) The terms “Engineer” and “Engineers” are protected under this Act and shall only be applied to persons or bodies fulfilling the requirements of this Act.

(2) Any person or body of persons who whether or not they are otherwise qualified as or to be an Engineer or Engineering Consulting Firm, of any description not being registered under this Act, pretends to be a Professional Engineer or a Consulting Engineer or Engineering Consulting Firms, takes or uses in any way the style or form or title of “Engineer or Engineers” in describing his occupation or his business or any other name, style, title, addition or description implying whether in itself or in the circumstances in which it is used, that such person or body or persons is an ‘Engineer’ or ‘Engineers’ shall be guilty of an offence

(3) Any person or body of persons not being a Professional Engineer or Consulting Engineer or Consulting Engineering Firm that uses the title or style ‘engineer’ or ‘engineers’ in describing his occupation or business prior to the coming into

force of this Act, shall change such name or business name in accordance with the provisions of the Act.

(4) No person shall, unless he is a Professional Engineer

- a) Practice, carry on business or take up employment which requires him to carry out or perform Professional Engineering services
- b) Use or display any sign, board, card or other device representing or implying that he is a Professional Engineer
- c) Be entitled to recover in any court any fee, charge, remuneration or other forms of consideration for any professional engineering services rendered or
- d) Use the stamp as prescribed in the schedule.

(5) Notwithstanding Sub-Section (4), a Graduate Engineer may, subject to Section 8, take up employment which requires him to perform Professional Engineering services

(6) The Board may grant exemptions upon application to any person or group of persons for the use of the description or use of the term engineer or engineers. Such exemptions shall be in accordance with any written International convention or treaty ratified by the Government

Part –IV – Engineering Practice

21-Annual Practicing License

21(1) Every person or body of persons or Engineering Consulting Firm who has been registered under this Act shall, if he intends to practice in his professional capacity, require, in addition to such registration, an Annual Practicing Licence in a prescribed form for which he shall pay to the Board, a fee which shall be prescribed by the Board.

(2) The Board in consultation with the Minister shall from time to time determine the fees for registration and Annual Practicing Licence.

- (3) Any sums payable under Sub-Section 21(1) shall be applied by the Board in such manner as may be prescribed by the Minister and the Board and in accordance with existing laws.
- (4) Every Annual Practicing License shall bear the date on which it is issued and shall be effective from that date, and shall expire at the end of the licence year in which it is issued. Provided that where the name of a Professional Engineer or a Consulting Engineer or Engineering Consulting firm is removed from the Register, the Annual Practicing Licences of that person or Firm shall expire forthwith.
- (5) The licence year shall be from the 1st January to the 31st December in each year.
- (6) The Registrar shall enter into the Register the date of issue of every Annual Practicing Licence.

22-Private Practice as an Engineer

- 22(1) No person other than a Professional Engineer or a Consulting Engineer shall engage in the provision of Professional Engineering works or services.
 - 2) No person or body of persons whether corporate or otherwise shall carry on business of engineering unless one of its partners or directors as the case may be is a Professional Engineer.
 - 3) Where a Partner or Director of a body of persons, whether corporate or unincorporated, carrying on business as an engineer dies, that body of persons may, notwithstanding the provision of Sub-Section 2, continue to carry on the business with the services of a Professional Engineer until such time as the administration of the estate of the deceased is completed as if the legal representatives were professional engineers.
 - 4) Any person who carries on business as an engineer in contravention of this Section commits an offence and is liable to a fine or to imprisonment as specified in Schedule IV.

23-Employment as an Engineer

- 23(1) No person shall employ or continue to employ any person to offer Engineering professional services any person who is not registered under this Act.

- (2) No person shall take up or continue in any employment as a Professional Engineer or Consulting Engineer unless he is registered as a Professional Engineer or Consulting Engineer.
- (3) An employer shall not employ or engage a Graduate Engineer in any work or service save for when such Graduate Engineer will work under the supervision of a Professional or Consulting Engineer.
- (4) Any person who contravenes any provision of these Sections commits an offence and is liable to a fine or imprisonment as specified in Third Schedule .

24 - Dishonest Practices.

(1) Notwithstanding any other provisions in any written law, 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; or
- b) fraudulently procures or attempts to procure himself or any other person to be Registered or
- c) knowingly or willfully makes any statement which is false in 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 persons or
- d) Practices or attempts to practice as a Professional Engineer, Consulting Engineer and or Engineering Consulting Firm without holding a valid Annual Practicing Licence.

shall be guilty of an offence and liable to a fine and or imprisonment as specified in Fourth Schedule.

Part -V- Establishment of Various Committees

25. Professional Engineers Services Committee

- (1) The Board shall appoint a Committee to be known as the Professional Services Committee which shall report to and take direction from the Board.
- (2) The Committee shall report and take direction from Board.
- (3) The Committee shall consist of six members who are registered professional engineers with not less than seven years post registration experience and are residents in Kenya. The members shall be chosen as follows:
 - a) Chairman appointed by the Board from amongst the Board members.
 - b) Two members appointed by the Board.
 - c) Three members appointed by the Institution of Engineers of Kenya.
- (4) The regulations of the Engineers Professional Services Committee are detailed In the Fifth Schedule.

26 Engineers Complaints and Disciplinary Committee

- 26(1) The Board shall appoint a Committee to be known as the Engineers Complaints and Disciplinary Committee of the Board.
- (2) The Committee shall report and take direction from Board.
- (3) The Committee shall consist of five members who are registered professional engineers with not less than seven years post registration experience and are residents in Kenya. The members shall be chosen as follows:
 - a) Chairman appointed by the Board from amongst the Board members.
 - b) Two members appointed by the Institution of Engineers of Kenya.
 - c) Two members appointed by the Board.
- 5) Regulation and proceedings of the Committee shall be as detailed in the Sixth Schedule.

IV.

27) Investigating Committee

27. (1) For the purposes of Sub-Section 27(3), the Board shall appoint an Investigating Committee consisting of :—

- a) A Chairman, who need not be a Professional Engineer; and
- b) two Professional Engineers,

to conduct an investigation of engineering nature.

(2). The Committee shall report and take direction from the Board.

(3) Where a member of the Investigating Committee is a Member of the Board, he shall not sit as a Member of the Board when the Board conducts a hearing or makes an order in respect of the Engineering Consulting Firm which has been examined by the Investigating Committee of which he is a member.

(4) Where the Investigating Committee has conducted an investigation against a Professional Engineer, the Member of the Investigating Committee shall not sit as a Member of the Disciplinary Committee appointed to conduct a hearing of any misconduct or complaint or to make an order in respect of the Professional Engineer, Consulting Engineer or Consulting Engineer Firm who has been investigated by the Investigating Committee of which he or it is a Member.

(5) The Investigating Committee appointed under Sub-Section (1) may, for the purpose of an investigation –

(a) require any person, including a sole Proprietor, Partner, Director, Manager or Secretary, to attend before it and give evidence on oath or affirmation, and the Chairman of the Investigating Committee presiding at the investigation may administer the oath; and

(b) require such person to produce any book, document or paper relating to the subject matter of the investigation which is in the custody of that person or under his control.

- (6) Upon completion of its investigation, the Investigating Committee shall submit a report together with its recommendations, if any, to the Board for its consideration.
- (7) A person, including a sole Proprietor, Partner, Director, Manager or Secretary, shall, unless with reasonable cause :—
- a) attend and give evidence when required to do so by the Investigating Committee;
 - b) answer truthfully and fully any question put to him by any member of the Investigating Committee; or
 - c) produce to the Investigating Committee any book, document or paper required of him.
- (8) Regulation and proceedings of the Committee shall be as detailed in the Seventh Schedule.

28 Appeals Committee.

- 28 1) For the purpose of this Part the Board shall appoint an Appeals Committee.
- 2) The Committee shall take directions from and report to the Board.
- 3) The Members shall be chosen as follows:
- a) A former Judge of the High Court or someone qualified to be a Judge of the High Court to serve as the chairman and who shall be appointed by the Minister after consultation with the Chief Justice.
 - b) Two members appointed by the Institution of Engineers of Kenya.
 - b) Two members appointed by the Board.
- 4) Any person aggrieved by a decision of the Board may appeal to the High Court against to the decision of the Board and such appeal the High Court may be give such directions in the matter as it thinks proper, and any order of the High Court under this section shall be final.
- 5) Regulation and proceedings of the Committee shall be as detailed in the Eighth Schedule.

29- Academic Qualifications Committee

- 1) For the purpose of this Part the Board shall appoint an Academic Qualifications Committee.
- 2) The Committee shall take directions from and report to the Board.
- 3) The Committee shall have five members who shall be chosen as follows:
 - a) A Professional Engineer who shall be a Board member, and appointed by the Board, to serve as the chairman.
 - b) Two members appointed by the Institution of Engineers of Kenya.
 - c) Three members appointed by the Board.
- 6) Regulation and proceedings of the Committee shall be as detailed in the Ninth Schedule.

Part -VI-Financial Provisions

30 - Financial year

- 30(1) The financial year of the Board shall be twelve months commencing on the 1st July ending on 30th June in the next succeeding year.
- (2) The funds shall consist of; -
- (a) annual subscription;
 - (b) any money appropriated by Parliament for the purpose of any function to be carried out by the Board;
 - (c) Monies and all Revenue earned from the activities of the Board under this Act;
 - (d) Grants, Loans, Gifts or Donations from the Government or any other source, made with the approval of the Minister and the Minister responsible for Finance.
 - (e) any other funds received by the Board in the performance of their functions under the Act.

- (f) such sums as may in any manner become payable to or vested in the Board either under the provisions of this Act or any other written law, or incidental to the carrying out of the functions of the Board.

(3) Borrowing Powers of the Board

- (a) The Board may, with the approval of the Minister and the Minister responsible for Finance, borrow money required by it for the exercise of its functions and for meeting its obligations.
- (b) The approval under Sub-Section 30(3) (a) may be either general or limited to a particular transaction and may be either unconditional or subject to conditions.

(4) Powers to invest funds

Any fund of the Board not immediately required for any purpose under this Act may be invested in a manner which the Board may deem necessary with the approval of the Minister and the Minister responsible for Finance.

(5) Annual budget

The Board shall cause to be prepared and submitted to the Minister Annual Budget three months before the end of each financial year.

(6) Expenditure outside the budget

The Board may fund any Board activity outside the budget approved by the Minister in consultation with the Minister responsible for Finance.

(7) Accounts and Audit

- (1) The Board shall keep proper books of accounts in conformity with International Accounting Standards.
- (2) For each financial year, the Board shall prepare accounts and submit for audit accounts to the Kenya National Audit Office in accordance with the Public Audit Act, 2003, and comply with all the applicable requirements of that Act.

(8) Principles of operation

The Board shall perform its functions in accordance with sound financial principles and shall ensure, as far as reasonably practicable, that their expenditures are properly chargeable to the revenue.

Part VII – Transitional Arrangements

31 Transitional Arrangements

- 31 (1) This Act repeals the Engineers Registration Board Cap 530 (1992), of the Laws of Kenya.
- 2) The Board under Cap 530, now repealed, having effects before the commencement of this Act shall be deemed to continue operations and continue its existence as the Board as the case may be, under the provisions of this Act.
 - (3) The Board members who are in the office immediately before the commencement of this Act shall be deemed to have been appointed within the meaning of Section 4(1) of this Act
 - (4) The Registrar of the Board who is in office immediately before the Commencement of this Act shall be deemed to have been appointed within the meaning of Section 9(1) of this Act.
 - (5) Any registration Certificate or Practicing Certificate or Annual Practising Licenses or written authority to practice issued and in force under Cap 530 (now repealed) shall at the commencement of this Act be deemed, as the case may be, to have been issued in accordance with the provisions of this Act.
 - (6) All persons who prior to the commencement of this Act were in the employment of the Board shall upon commencement be deemed to be employed by the Board on such terms and conditions not being to their disadvantage as the Board may determine.
 - (7) The Board shall be deemed to be in continuous service for the purpose of the payment of all employment benefits.
 - (8) Anything done by the Board established under Cap 530, now repealed shall be deemed to have been done by the Board as the case may be, under the provisions of this Act.

Part VIII -Miscellaneous Provisions

32 - Offences under the Act

- a) Deliberate misrepresentation of facts
- b) Concealing of facts
- c) Professional Misconduct
- d) Negligence
- e) Conflict of interest
- f) Engaging in any other fraudulent activity
- g) Expressing an opinion on any matter with which he is concerned in a professional capacity without obtaining sufficient information on which to base the opinion
- h) Failure to do any other Act which may be prescribed
- i) Practicing without a valid Annual Practicing Licence
- j) Engaging a person who is not registered under this Act to perform Engineering works or provide Engineering services

A person who practices engineering activities without a valid Annual Practicing License commits an offence and upon conviction is liable to:-

- (a) in case of an individual, a fine of not less than one million shillings or imprisonment for one year or both.
- (b) in case of a firm, a fine of not less than five million shillings.

33. Powers of the Minister

- (1) To appoint Board members
- (2) To appoint the Registrar
- 3) To dissolve the Board

- 4) To investigate any engineering matter that is in interest of the public
- 5) To appoint Emergency and Disaster Committees or any other as the case may be.
- 6) To formulate and or amend and gazette the regulations according to this Act.
- 7) To perform any other function necessary for to the implementation of the Act.

34. General Provisions

- 1(a) The right of a Professional Engineer or Engineering Consulting Firm to submit plans, engineering surveys, drawings, schemes, proposals, reports, design or studies to any person or authority in Kenya is restricted to the right to submit such documents only in relation to the branch of engineering in which the Professional Engineer including the Professional Engineer in an Engineering Consulting Firm is qualified as shown in the entries made in the Register.
 - (b) No person or body of persons other than a Professional Engineer or Engineering Consulting Firm who is residing and practicing in Kenya shall be entitled to submit engineering plans, surveys, drawings, schemes, proposals, reports, designs or studies to any person or authority in Kenya.
2. The Board may register a person as an Accredited Checker if:-
 - (a) he is a Professional Engineer registered in the relevant branch of engineering approved by the Board;
 - (b) he has at least fifteen years relevant practical experience in design and construction.
 - (c) he satisfies the Board that by virtue of his ability, standing in the profession, special knowledge or practical experience, he is qualified to be registered under the Act.
 3. No person shall, unless he is an Accredited Checker, perform the functions or duties as may be prescribed under this Act.

4. The regulations governing the Accredited Checker are detailed in the Tenth Schedule.