

THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

No. 2

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THE ENGINEERS REGISTRATION (AMENDMENT) ACT, 2007

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THE UNITED REPUBLIC OF TANZANIA



No. 24 of 2007

I ASSENT.

JAKAYA M. KIKWETE,
*President*31st December, 2007**An Act to amend the Engineers Registration Act.**

ENACTED by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Engineers Registration (Amendment) Act, 2007 and shall be read as one with the Engineers Registration Act hereinafter referred to as the "principal Act".

Short title
and cons-
truction
Cap. 63

PART II

GENERAL AMENDMENTS

- 2.—Section 2 of the principal Act is amended by—

Amend-
ment of
section 2

- (a) inserting in the appropriate alphabetical order the following new definitions—

"engineering project" means a project whose inception, planning, designing, execution, supervision and management require engineering science, technology and management;

"engineering organization" means organization whose functions involve the planning, designing, processing and the delivery of engineering products and services;

"Institutions of Engineers" means local or foreign engineering institutions registered in their respective countries and their

members are engineers whose academic knowledge and practical experience are recognized by the Board;
“technical institutions” means institutions, agencies or Ministries that-

- (i) employ engineers and use their services;
 - (ii) are responsible for works, water, communication, transport, agriculture, energy, mining, local government, science and technology, environment, industry and trade;
- (b) deleting the phrase “registered consulting engineer” appearing in the eleventh line and substituting for it the phrase “consulting engineer”;
- (c) deleting the phrase “registered engineer” appearing in the fourteenth line and substituting for it the phrase “professional engineer”;
- (d) deleting the phrase “registered graduate engineer” appearing in the sixteenth line and substituting for it the phrase “graduate engineer”; and
- (e) deleting the phrase “registered graduate technician engineer” appearing in the eighteenth line and substituting for it the phrase “graduate incorporated engineer”.

Amend-
ment of
section 4

3. The principal Act is amended in section 4 by-

- (a) designating section 4 as section 4(1);
- (b) deleting paragraph (c) and substituting for it the following—

“(c) to provide facilities and opportunities for learning professional exposure and skills acquisition; and cause to be held professional development programmes for engineers and engineering technicians”.
- (c) adding immediately after paragraph (h) the following paragraphs—
 - “(i) to plan, arrange, coordinate and oversee the professional training of local graduate engineers;
 - (j) to collaborate with the Tanzania Commission for Universities and other relevant institutions on the accreditation of programs for training of engineers and facilitate for the same;

- (k) to enter and inspect sites where construction, installation, erection, alteration, renovation, maintenance, processing, or manufacturing works are in progress for the purpose of verifying that—
 - (i) engineering activities are undertaken by engineers registered in appropriate categories and engineering consulting firms;
 - (ii) standards and professional ethics and relevant health and safety aspects are observed;
- (l) to enter and inspect business offices for verification purposes or for monitoring works, services and goods rendered by engineers and engineering technician;
- (m) to suspend or issue stop order to any works, projects, service, installation, process or other engineering activities, which are done without meeting engineering professional requirement;
- (n) to take legal action against persons or firms that practice engineering without being registered by the Board;
- (o) to take legal action against engineers and engineering consulting firms that practice engineering or offer engineering consultancy services in areas outside their competence for which they are not registered;
- (p) to conduct examinations for purposes of registration and grant certificate, diplomas and other awards of the Board to successful candidates;
- (q) to impose penalties on engineers, persons, employers of engineers, firms and engineering consulting firms found guilty of professional misconduct for contravening any provisions of this Act;
- (r) to collaborate with local engineering training institutions, professional association and other organizations in matters related to training, professional development of engineers, engineering technicians, and other relevant Board activities;
- (s) to provide a link between engineers seeking employment and prospective employers”.
- (d) renaming paragraph (i) as paragraph (t);
- (c) adding new subsection as follows—

“(2) The Board may delegate some of its functions to local engineering professional association or institutions, but shall set standards and ensure their compliance”.

Repeal
and
replace-
ment of
section 5

4. Section 5 of the principal Act is repealed and replaced with the following provision:

“Limita-
tion of
liability

5. A member of the Board, Secretariat, or a person under whom performance of the functions of the Board have been *delegated*, *shall not be* personally liable for any act or default of the Board done or omitted in good faith in the course of carrying out responsibilities and functions of or exercising the powers conferred upon the Board.”

Repeal
and
replace-
ment of
section
10

5. Section 10 of the principal Act is repealed and replaced with the following section:

“Qualifi-
cation
for
registra-
tion

10. —(1) Subject to the provisions of this Act, a person shall be entitled, on making an application to the Board in the prescribed manner 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) engineering technician if he is a holder of a National Technical Award level 6 or equivalent;
- (b) graduate incorporated engineer if he is a holder of a higher diploma or an equivalent qualification in engineering obtained from an engineering polytechnic or college recognised by the Board;
- (c) graduate engineer if he is a holder of a degree, diploma of a university or school of engineering of which are recognized by the Board as furnishing a sufficient guarantee of an adequate academic training in engineering;
- (d) incorporated engineer if he is a graduate incorporated engineer and has not less than three years practical experience of such a nature as to satisfy the Board as to his competence to practice as incorporated engineer;

- (e) professional engineer if he—
 - (i) is a member of an institution of engineers, the membership of which is recognized by the Board as furnishing a sufficient guarantee of academic knowledge of and practical experience in engineering;
 - (ii) is a graduate engineer and has not less than three years practical experience of such a nature as to satisfy the Board as to his competence to such the practice as a professional qualified engineer or;
 - (iii) has passed the prescribed examination or interview as the case may be, as set by the Board;
- (f) consulting engineer in a particular classification and grade if he—
 - (i) is a professional engineer and has practiced in a specialized engineering field for a period determined by the Board;
 - (ii) has satisfied the Board as to having achieved a standard of competence to enable him to practice as a consulting engineer in a particular specialization and grade.

(2) Subject to the provisions of subsection (1): (f) of this section, a consulting engineer may practice as an independent consultant or individual consultant as stipulated in the Public Procurement Act provided that he has satisfied the Board to have fulfilled the requirements as may be determined by the Board.

(3) In the case of a consulting firm—

- (a) a person or body of persons shall not be registered as a consulting engineer unless at least 51% of the shares are owned by engineers or companies registered with the Board:

(b) such a consulting firm shall fulfil the conditions mentioned in subsection (1) (f) in terms of its key engineering personnel and any other conditions which may, from time to time, be prescribed 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.

(4) The Board may require an applicant for registration under this Act to satisfy that his professional and general conduct has been such as, in the opinion of the Board, to make him a fit and proper person to be registered under this Act and the Board may direct the Registrar to postpone the registration until so satisfied."

end-
it of
ion

6. The principal Act is amended in subsection (1) of Section 11 by adding immediately after paragraph (c) the following proviso—

"Provided that, such qualifications, expertise and skills are not available amongst Tanzanian engineers or engineering technicians".

ition
section

7. The principal Act is amended by adding immediately after section 12 the following new section:

"Annual
practising
licence

12A. —(1) Every professional engineer or consulting engineer who has been registered under this Act, shall in addition to such registration possess a practicing certificate.

(2) A practicing certificate shall be valid for three years from the date of issue but shall be deemed to have expired forthwith where the registered professional or consulting engineer is deleted from the register earlier before the end of such period.

"Provided that, where the name of a registered professional or consulting engineer is deleted from the register, the annual practicing certificate expires forthwith.

(3) A person who practices engineering activities without valid practicing certificate, commits an

offence and upon conviction is liable to-

(a) in case of an individual, a fine of not less than five hundred thousand shillings or one year imprisonment in default or both fine and imprisonment;

(b) in case of a firm, a fine of not less than five million shillings.

(4) The Board may consider provisions of practicing certificate for a period less than a year as it may deem fit."

8. Section 13 of the principal Act is amended by-

(a) deleting subsection (2) and substituting for it the following provision-

Amend-
ment of
section
13

"(2) For the purposes of this section-

"professional engineering work" includes professional services, consultation, investigation, evaluation, planning, designing, management of engineering projects or responsible supervision of construction or operation in connection with any public or privately owned public utilities, buildings, machines, equipment, processes, works or projects where public interest and welfare or the safeguarding of life, public health, environmental sustainability or property is concerned or involved and that requires application of engineering principles and data;

"professional engineering services" means advisory services relating to any professional engineering works, selling or supplying for gain or reward any plan, sketch, drawing, design, specification or other document relating to any professional engineering works, services or goods;

"consulting engineering services" includes consultancy and advisory services relating to any independent professional engineering works, service or goods and selling or supplying for gain or reward any plan, sketch, drawing, design, specification or other document relating to any professional engineering work, service or goods with a liability to be sued."

- (b) deleting in subsection (7) the phrase “five hundred thousand shillings” appearing in the third and fourth lines and substituting for it the phrase “one million shillings.”

Amend-
ment of
section
14

9. Section 14 of the principal Act is amended—

- (a) by deleting subsection (1) and substituting for it the following:

“(1) A person shall not employ as an engineer any person who is not a professional engineer or consulting engineer, or cause to undertake engineering works or services without employing the services of a professional engineer or consulting engineer.”

- (b) by deleting subsection (2) and substituting for it the following:

“(2) No person shall take up or continue in any employment as an engineer, or carry out engineering works or services unless he is a professional engineer or consulting engineer.”

- (c) by deleting subsections (4) and (5) and substituting for them the following—

“(4) In this section “employ” means employ under a contract of service or other form of agreement and the term “employment” shall be construed accordingly.

(5) Where an employer employ any person as a trainer engineer or incorporated engineer, this section shall not apply to that employee’s employer.

(6) In the case of employment of a graduate engineer, graduate incorporated engineer or incorporated engineer, subsections (1) to (4) of this section shall not apply, unless they acquire registration as professional engineers.”

- (d) by renumbering subsection (6) as subsection (7).

Amend-
ment of
section
15

10. Section 15 of the principal Act is amended—

- (a) in paragraph (b) of subsection (1) by deleting the phrase “section 16 and 17” and substituting for it the phrase “any provisions of this Act”;

- (b) by deleting paragraph (c) and substituting for it the following—

“(c) been found by the Board to be guilty of misconduct or breach of code of conduct and ethics as provided for under section 17”;

(c) by adding immediately after paragraph (c) the following new paragraph:

“(d) failed to pay annual fees for a period of two years consecutively.”

11. The principal Act is amended in section 17 by—

Amend-
ment of
section
17

(a) renumbering the contents of section 17 as subsection (1);

(b) adding immediately after paragraph (c) of subsection (1) as renumbered, the following new paragraph—

“(d) impose a fine of such amount as will be determined by the Board.”

(c) adding immediately after subsection (1) as renumbered, the following new subsection—

“(2) Where the punishment imposed is a fine and the person so fined refuses or fails to pay the fine within thirty days of the date on which it is imposed, his registration shall be suspended until such time the fine has been paid to the Board”.

12. Section 18 of the principal Act is amended—

Amend-
ment of
section
18

(a) in subsection (1), by adding immediately after that subsection the following proviso:

“Provided that, when represented, the person shall also be present at the hearing of the inquiry.

(b) in subsection (2), by adding immediately after paragraph (c) the following new paragraph—

“(d) to appoint a person who shall advise the Board at such inquiry on matters relating to law.”

13. Section 19 of the principal Act is amended in subsection (1) by deleting the phrase “not exceeding twenty thousand shillings and substituting for it the phrase “not less than five hundred thousand shillings or imprisonment for a term of one year or to both such fine and imprisonment”.

Amend-
ment of
section
19

14. The principal Act is amended in section 21, by deleting paragraph (c) and substituting for it the following paragraph:

Amend-
ment of
section
21

“(c) two engineers appointed by the Minister who are not employees of the ministry responsible for works.”

Amend-
ment of
section
29

15. The principal Act is amended in section 29—

(a) by adding immediately after paragraph (c) the following new paragraph—

“(d) such sums to be provided by technical institutions, industries or organizations for the Structured Engineers Apprenticeship Programme.”

(b) by renaming paragraph (d) as paragraph (e).

Amend-
ment of
section
33

16. The principal Act is amended in section 33 by deleting the phrase “subject to the provisions of subsection (2) of section 21”.

Amend-
ment of
section
34

17. The principal Act is amended in section 34 by deleting the word “consent” appearing between the words “the” and “of” and substituting for it the word “consultation”.

Passed in the National Assembly on the 5th November, 2007.

DAMIAN S. L. FOKA,

Clerk of the National Assembly