

CHAPTER 235

THE CONTRACTORS REGISTRATION ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

Section Title

PART I

PRELIMINARY PROVISIONS

1. Short Title.
2. Interpretation.

PART II

THE BOARD

3. Establishment of Board.
4. Functions of Board.
5. Limitation of Liabilities.
6. Appointment of Registrar.

PART III

REGISTRATION

7. Registers of contractors.
8. Publication of registers and lists.
9. Publication *prima facie* evidence of registration.
10. Qualification for registration of contractors.
11. Restriction to carry out construction.
12. Temporary Registration.
13. Restriction on registration of non-foreign firms.
14. Notification of Changes.

PART IV

CANCELLATION AND SUSPENSION OF REGISTRATION

15. Power to cancel registration.
16. Restriction on payment of annual subscription fee.
17. Restoration to Register.
18. Powers to suspend registration etc.
19. Proceedings at inquiry.
20. Disobedience to summons and refusal to give evidence.
21. Appeals against decisions of Board.

22. Appeals Authority.
23. Rules regulating proceedings before Appeals Authority.

PART V

RESTRICTION ON TRADING AS CONTRACTOR

24. Use of description “registered” and effect of registration.
25. Restrictions on carrying on business as contractor.
26. Bodies of persons operating as contractors.
27. Definition of “carrying on business” and “trading as contractor”.

PART VI

ACTIVITIES OF THE BOARD AND FINANCIAL PROVISIONS

28. Board may delegate its functions.
29. Accounts and audit.
30. Board report.
31. Funds of Board.
32. Power to invest.
33. Annual statement of accounts and Registrar’s report to be laid before National Assembly.
34. Minister may give directives.

PART VII

GENERAL PROVISIONS

35. Offences.
36. Power to compound offences.
37. Annual returns.
38. Regulations by Minister.
39. By-laws.
40. Notice of closure construction.
41. Proceedings of Board not to be invalid by reason of irregularity.
42. Repeal of.
43. Savings.

SCHEDULE

CHAPTER 235

THE CONTRACTORS REGISTRATION ACT

An Act to provide for the registration, development and promotion of contractors and to establish a Board to regulate the conduct of contractors and for related matters.¹

[1st August, 1997]

[GN. No. 317 of 1997]

Acts No.
17 of 1997
15 of 2008
3 of 2011
4 of 2016

PART I

PRELIMINARY PROVISIONS

Short Title

1. This Act may be cited as the Contractors Registration Act.

Interpretation
Act. No.
15 of 2008 s. 3

2. In this Act, unless the context requires otherwise-

“Appeals Authority” means the Appeals Authority referred to in section 22;

“Board” means the Contractors Registration Board established under section 3;

“Building, Electrical, Mechanical and Civil Works” means construction works related to Building, Electrical, Mechanical and Civil Engineering disciplines;

“construction works” means construction, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of-

(a) any building edifice, structure, wall, fence, or chimney whether constructed wholly or partly above or below ground level;

¹ Amended by Act No. 15 of 2008 s. 2

- (b) any road, harbour works, railway, cableway, canal, or aerodrome, bridge, viaduct, dam, reservoir, earthworks, pipeline, sewer, aqueduct, culvert, drive shaft, tunnel, or reclamation works, any drainage, irrigation or river control works;
- (c) any electrical, mechanical, water, gas, petrochemical or telecommunication, machine or any works which form an integral part of, or are preparatory to or temporary for the works described in paragraphs (a) to (b) above, including site clearance, soil improvement, earthmoving, site restoration and landscaping;

“contractor” means either:

- (a) a person who for a reward or, other valuable consideration undertakes to carry out and complete any construction works for another person, of any structure situated below, on or above the ground or water bodies or other work connected therewith, where such person undertakes to do any such works-
 - (i) himself supplies the material necessary for the work or is authorised to exercise control over the type, quality or the use of material supplied by any other person;
 - (ii) himself supplies the labour necessary for the work or is authorised on behalf of the person for whom the work is undertaken or any other person, to employ or select for employment workmen to assist him in the execution of the work; or
- (b) a person who for himself as a developer or investor, undertakes to carry and complete construction works of any structure for public or private use or other works connected therewith, where such person undertakes to do any such works-
 - (i) himself supplies the labour necessary for the works or is authorised to exercise control over the type, quality or the use of material supplied by any other person;

- (ii) himself authorised on behalf of the person for whom the work is undertaken or any other person, to employ or select for employment workmen to assist him in the execution of the work:

Provided that, a person shall not be deemed to be a contractor or otherwise carrying out works that need to be undertaken by a contractor for the purpose of this Act, where such a person undertakes or hold himself out as willing to undertake or undertakes construction of which value does not exceed such a different discipline of the construction industry; or undertakes or holds himself out as willing to undertake construction of a residential house (not for public use), which does not require an input of structural design.

“certificate of compliance” means a certificate of compliance issued by the Business Registration and Licensing Agency;

“foreign” in relation to a firm or company means a firm or company registrable under the Companies Act whose majority shares are owned by non-citizens;

“local” in relation to a natural person, means a citizen of the Tanzania, and in relation to a firm means a contracting firm or company incorporated in Tanzania whose majority shares are owned by the citizens of the Tanzania;

“member” in relation to the Board or the Appeals Authority includes the Chairman and the Vice-Chairman;

“Minister” means the Minister responsible for works;

“period of contracted works” means the duration of execution of work including the defect liability period;

“person” means a natural person, body of persons whether corporate or unincorporate;

“Register” means the Register of Contractors maintained by the Board in accordance with the provisions of this Act;

“registered” in relation to any contractor means a contractor whose name is entered in the relevant register;

“Registrar” means the Registrar appointed in accordance with the provisions of section 6;

“technical qualifications, experience, skills, or conduct” means the technical qualifications, experience, skills, or conduct prescribed by the Board.

PART II

THE BOARD

Establishment of
Board

3.—(1) There is hereby established a Board to be known as the Contractors Registration Board.

(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 purpose of this Act, be capable of acquiring, holding and disposing of movable and immovable property in its corporate name;
- (d) be capable of making by-laws to facilitate the implementation of this Act.

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

(4) The Minister may, after consultation with the Board, by order published in the *Gazette*, amend, add to, vary, revoke or replace the provisions of the Schedule.

Functions of
Board
Act No.
15 of 2008 s. 4

4.—(1) Subject to the provisions of this Act and regulations made under it, the functions of the Board shall be to—

- (a) consider and decide upon application for registration and to effect registration of contractors;
- (b) prescribe fees for registration and annual subscription;
- (c) maintain a register of contractors;
- (d) regulate the activities, promote and maintain professional conduct and integrity of contractors;

- (e) inspect any site for construction works, for the purpose of verifying and ensuring that the works are being undertaken by registered contractors, and that the works comply with all governing regulations and laws of the country including requirements for safety, erection of a signboard which shows the names and address of the project, client consultant and contractors of the project, project registration sticker; and to take legal action against defaulters thereof;
- (f) take legal action against a firm, company, organization, partnership or individual person who undertakes construction works without being registered under this Act;
- (g) promote, provide and coordinate training of contractors in areas related to construction works;
- (h) grant certificates and other awards of the Board;
- (i) sponsor, arrange and provide facilities for courses, workshops, conferences, seminars, discussion, symposia and consultation on matters relating to the subject referred to in paragraph (f);
- (j) arrange for the publication and general dissemination of materials produced in connection with the works and activities of the Board;
- (k) furnish managerial, technical and administrative advisory services to contractors;
- (l) liaise and interact with both local and international professional boards and association involved in and with the construction industry;
- (m) ensure that all construction sites are hoarded; and labour laws, occupational health and safety regulations in the construction industry are adhered to;
- (n) set criteria for registration and classification of contractors into different types, categories and classes and to set class limits of projects to be executed by contractors;

- (o) review the registration criteria of contractors;
- (p) review registered contractors with a view to ensuring that they meet the registration criteria applicable to the types, categories and classes concerned;
- (q) consider applications for dispensations for specific contractors by clients or their consultants on behalf of registered contractors;
- (r) issue stop orders against any person or firm which contravenes the Act;
- (s) register construction project for the purpose of regulation;
- (t) assess the competence and capability of any contractor in the course of executing any project with Mainland Tanzania;
- (u) settle disputes or complaints amongst contractors themselves and their employees, consultants, suppliers, manufacturers or clients presented to the Board for that purpose; and
- (v) carry out any other functions which are in the public interest and which the Minister may in writing direct.

(2) The Board may, with consent of the Director of Public Prosecutions, have the power to prosecute offences committed under this Act.

Limitation of
Liabilities
Act No.
15 of 2008 s. 5

5. A member or employee of the Board 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 the responsibilities and functions of, or exercising the powers conferred upon him by the Board or management.

Appointment of
Registrar
Act No.
4 of 2016 s. 11

6.-(1) The Board shall appoint a Registrar of the Board who shall be either a registered Engineer, Architect, Quantity Surveyor or a qualified person in either law, economics, finance or management.

(2) The Registrar shall hold or vacate office in accordance with the terms of his appointment.

PART III

REGISTRATION

Registers of
contractors
Act No.
15 of 2008 s. 6

7.-(1) The Registrar shall keep and maintain registers of contractors of different types, categories and classes in which the name of every person entitled to be registered contractor, shall be entered after being accepted by the Board for registration.

(2) Subject to subsection (1), the register shall contain the following particulars:

- (a) the date of entry;
- (b) the name and postal address(es);
- (c) the registration number;
- (d) the class registered in;
- (e) the capital and other financial resources;
- (f) tools, plants and equipment;
- (g) physical premises;
- (h) the key managerial, professional or technical and other personnel;
- (i) directors or partners, one or more of whom shall be technically qualified and experienced in the relevant works as prescribed by the Board;
- (j) in the case of an individual, the qualifications and skills as prescribed by the Board necessary to enable him to discharge in satisfactory manner the obligations which he may reasonably be expected or called upon to undertake as a contractor belonging to the category, type and class in respect of which registration is being sought;
- (k) acceptable security cover;
- (l) annual turnover of construction activities;
- (m) category (foreign or local);
- (n) duration of registration;
- (o) type of registration; and
- (p) any other particulars which the Board may, direct.

(3) Registers shall be kept for the following types of contractors namely-

- (a) building works contractors;
- (b) civil works contractors;
- (c) electrical work contractors;
- (d) mechanical works contractors;
- (e) specialist contractors in works partly or wholly as specified in paragraphs (a), (b), (c) and (d).

(4) A change in any of the particulars registered under subsection (1), shall be entered in the appropriate register by the Registrar.

Publication of
registers and lists
Act No.
15 of 2008 s. 7

8.-(1) The Registrar shall, by notice in the *Gazette* as soon as practicable after Registration, publish the names, postal and physical addresses, registration number, type, category and class registered in and names and qualifications of partners or directors of the contractor.

(2) Subject to direction of the Board, the Registrar may publish any amendment to or deletion from the register in the *Gazette*.

(3) The Registrar shall, by notice in the *Gazette* as soon as practicable after the first day of January in each year publish a list containing the names, postal and physical address, premise, registration number, type, category and class of registered contractors remaining on the registers after the thirty first day of December of the previous year.

Publication
prima facie
evidence of
registration
Act No.
15 of 2008 s. 8

9.-(1) A publication under the provision of section 8 shall be *prima facie* evidence that any person's name in the register is registered under this Act, and the deletion from the register of the name of any person notified by that publication, shall be *prima facie* evidence that such a person is not so registered.

(2) The registers, lists and all copies or extracts from them which have been duly certified by the Registrar shall be accepted in courts and tribunals or other bodies authorised to receive evidence of the facts stated in them.

(3) A person may inspect the register and any document relating to any entry in it and may obtain from the Registrar a copy or an extract from the register for any document on payment of a prescribed fee.

(4) An order compelling the production of the register or any document kept by the Registrar shall not be issued from any court, unless it bears the seal of the court issuing the order and accompanied by a statement that it is issued by a court of law.

(5) The Registrar shall, in any legal proceeding to which he is not a party, not be compelled-

- (a) to produce the register or any document the contents of which can be proved under subsection (1);
- (b) to appear as a witness to prove any entry in the register, any matter recorded in the register or any document, unless the court for special cause, so order.

Qualification for
registration of
contractors
Acts Nos.
15 of 2008 s. 9
3 of 2011 s. 32
4 of 2016 s. 12

10.-(1) Subject to the provisions of this Act, a person shall be eligible on making an application to the Board in the prescribed manner and on payment of the prescribed fees, to be registered under this Act as a contractor if he satisfies the Board that-

- (a) he has the minimum technical qualifications and skills prescribed by the Board for the category, type and class of contractors the registration of which is being sought;
- (b) he has the necessary experience in construction works as prescribed by the Board;
- (c) his professional and general conduct, in the opinion of the Board, makes him a fit and proper person to be registered under this Act;
- (d) he has the necessary plants and equipment for the work or works intended to be carried on;
- (e) he is registered with or holds a certificate of compliance issued by the Business Registration and Licensing Agency.

Cap. 213

(2) An application by a contractor who is registered as a sole proprietor in terms of Business Names Registration Act shall be limited to classes six and seven for general contractors and classes two and three for specialist contractors.

(3) The Board may refuse to register a person as a contractor if in its opinion, that person-

- (a) does not meet the conditions stated in subsection (1);
- (b) is a practicing architect, quantity surveyor, engineer or consulting firm providing architectural, quantity surveying or engineering services; or
- (c) is a person whose employment shall result in conflict of interest with his employer by being a contractor.

(4) Upon registration, the person shall be issued with a certificate of registration indicating the registration number, type, category, class, date of registration and, duration of registration.

(5) The certificate issued under subsection (3), shall be the property of the Board and shall be withdrawn and returned to the Board upon suspension or cancellation of registration.

(6) An applicant under this section who is found guilty of an offence of submitting forged documents, misrepresentation or any form of fraudulent conduct, inducement or corrupt practice shall-

- (a) in the case of an applicant for registration as a contractor-
 - (i) have his application deferred; and
 - (ii) be debarred from being registered as contractor for a period of not more than two years; and
- (b) in the case of an applicant for upgrading or for obtaining any service from the Board-
 - (i) have his application deferred;
 - (ii) have his registration deleted; or
 - (iii) be debarred as contractor for a period of not more than two years.

Restriction
to carry out
construction
Act No.
15 of 2008 s. 10

11. A person or firm shall not undertake or cause to carry out and complete any construction works unless a person or firm is registered by the Board, and holds a valid certificate of registration.

[s. 10A]

Temporary
Registration
Act No.
15 of 2008 s. 11

12.-(1) Where a person satisfies the Board that-

- (a) the principal of the construction firm is not a citizen of Tanzania;
- (b) the firm has been incorporated outside Tanzania;
- (c) the firm intends to be present in Tanzania in the capacity of a contractor for the express purpose of carrying out a specific contract for which the firm has been contracted, the sum of which is not less than the sum prescribed by the Board for the category, type and class of contractors of which registration is being sought;
- (d) the firm has a certificate of compliance from the Registrar of companies showing that, the firm is or immediately prior to entering Tanzania was, trading as a contractor in the capacity which satisfies the Board of his fitness to serve the public as a qualified contractor;
- (e) the firm has in its employment, only those expatriates whose qualification and skills are not available in Tanzania;
- (f) the firm has lodged an affidavit with the Board to the effect that, once the contracted works are completed and the period of defects liability or maintenance has elapsed or close down business as an investor, then it shall wind up business and not engage itself in contracting business,

the Board may, if it thinks fit, direct that firm be registered under this section for the duration of the contracted works.

(2) An application for registration under this section, shall be in the prescribed form, accompanied by the prescribed fee, and the Board may require an applicant to appear before it for the purposes of every firm to produce documentary

evidence of its competence in executing construction works immediately prior to its entry in Tanzania.

(3) Registration of a firm under this section, shall entitle it to undertake work only for the duration or the period of contracted work which is directed by the Board in subsection (1) and on the expiration of the period of the contracted works, that firm shall cease to have been registered, and shall return the registration certificate to the Board within twenty-one days of the expiration of the period of the contracted works.

(4) In case of doubt, the decision of the Board as to the completion of the specific assignment shall be conclusive.

(5) Where the project is executed in phases, the Board may extend the duration of the project, on conditions to be prescribed by the Board.

(6) A firm under this section shall, during the duration or the period of the contracted works as is directed by the Board under subsection (1), and in relation to things done or omitted to be done in the course of the contracted work, be treated as being duly registered under this Act as a *bona fide* contractor but in relation to other matters shall be treated as not being registered.

(7) For the purpose of this section, the word “firm” includes a person or body of persons whether corporate or unincorporate.

[s. 11]

Restriction on
registration of
non-foreign firms
Acts Nos.
15 of 2008 s. 12
4 of 2016 s. 13

13.—(1) A person who is not a citizen of the Tanzania shall not be allowed to form a local contracting firm unless the majority of its shares of authorised capital are owned by the citizens of Tanzania.

(2) An assessment of the majority shareholders shall base on the aggregate of shares owned by locals in the individual firm or company.

(3) Where the company applying for registration is a shareholder which is a limited liability company, the majority share holding within that limited liability company shall be

Cap. 410

assessed to determine the aggregate shares owned between the locals and foreigners.

(4) A person, firm or company which hires the services or employs a contractor by virtue of section 46(2) and (3) of the Public Procurement Act, shall be required to ensure that fees payable under the provisions of this Act are paid.

(5) An application for registration under this section shall be submitted to the Board by a client, firm or company in the prescribed form and shall be accompanied by the prescribed fees.

(6) Subject to the provisions of subsection (2) and (3), the Board may require an employer of a firm or company to appear before it for the purpose of ascertaining-

- (a) documentary evidence to the effect that a firm or company is competent to execute construction works in respect of which it has or is about to enter into contract in Tanzania;
- (b) provisions in the proposed contract for construction works, addressing temporary registration requirements as specified in section 11.

(7) The Board may refuse to register any firm as a contractor, if in its opinion it-

- (a) does not meet the conditions stipulated in section 10;
- (b) is a practising registered architect, quantity surveyor, engineer or consulting firm providing architectural, quantity surveying or engineering services;
- (c) is a person whose resident or work permit does not allow him to carry on business as a contractor;
- (d) is a person whose general and professional conduct has been, in the opinion of the Board, makes him an unfit and improper person to be registered under this Act.

[s. 12]

Notification of
Changes
Act No.
15 of 2008 s. 13

14. The contractor shall notify any change of the directors, partners or other shareholders of the firm to the Board within twenty-one days from the date of that change.

[s. 12A]

PART IV

CANCELLATION AND SUSPENSION OF REGISTRATION

Power to cancel
registration
Acts Nos.
15 of 2008 s. 14
3 of 2011 s. 33
4 of 2016 s. 14

15.—(1) The Board may at any time direct that, the name of a registered contractor be deleted from the relevant register where that person has—

- (a) failed within a period of six months from the date of an inquiry sent by the Registrar by a registered letter to the address appearing in the register against his name, failed to notify the Registrar of his current address;
- (b) requested that his name be deleted from the register, in which case that person may be required to satisfy the Board by affidavit lodged with the Registrar that, a criminal proceedings or proceedings under section 18 or section 19 are being, or are not likely to be taken against him;
- (c) failed to pay annual subscription fee within the period prescribed under this Act;
- (d) failed to meet the current registration criteria of the Board;
- (e) abandoned any construction works undertaken;
- (f) been found guilty by the Board of being negligent in connection with any construction works undertaken;
- (g) contravened, or failed to perform, or assisted in the contravention of any terms, conditions or restrictions imposed by the Board;
- (h) been adjudicated bankrupt;
- (i) a winding-up petition against him;
- (j) forgery, misrepresentation, fraudulent conduct, inducement or corrupt practice; or
- (k) contravened or failed to comply with any provisions of this Act or regulations made under this Act.

(2) Where a contractor fails to pay the annual fees within the prescribed period, the Board shall, before suspending or

revoking registration of a contractor, give a written notice of intention to suspend or revoke the registration.

(3) The Registrar shall strike the name of deleted contractor from the register and delete any entry which has been incorrectly or fraudulently made or procured.

(4) Except in the circumstances specified in paragraph (a) of subsection (1) and (2), the deletion from the register of the name of any contractor shall be notified by the Registrar to that contractor by a recorded delivery or a registered letter to the address appearing in the register against his name immediately prior to the deletion.

(5) Subject to the provisions of section 17, a contractor whose name has been deleted from the register under this section, shall cease from the date of the deletion, to be registered for the purpose of this Act and shall be obliged to surrender to the Board immediately the certificate of registration for cancellation.

(6) A sole proprietor, partners, directors or share holders of a company shall not be allowed to register a new contracting sole proprietorship or company after having been deleted as registered contractor for a period of three years unless otherwise directed by the Board.

[s. 13]

Restriction
on payment
of annual
subscription fee
Act No.
13 of 2011 s. 34

16.-(1) A registered contractor shall pay annual subscription fee as prescribed by the Board.

(2) The annual subscription fee provided under subsection (1) shall be payable to the Board not later than 30th June, of every calendar year.

(3) A contractor who fails to effect payment of annual subscription fee as prescribed under subsection (1), shall immediately cease to operate as a contractor under this Act and shall not be permitted to undertake or proceed with any construction works.

[s. 13A]

Restoration to
Register
Act No.
15 of 2008 s. 15

17.—(1) Where the name of any contractor has been deleted from the register under section 15, the name of that contractor shall not be entered in the register except on the direction of the Board.

(2) Where the name of any contractor has been deleted from the register or the effect of the registration of any contractor has been suspended in terms of paragraph (b) of section 18, the Board may, either of its own motion or on application in the prescribed manner by the contractor concerned, and in either case after holding an inquiry as the Board may deem fit, direct that—

- (a) the deletion from the register be confirmed;
- (b) the name of that contractor be restored to the register; or
- (c) the suspension of the effect of the registration of that contractor be lifted.

(3) A direction given by the Board under subsection (2) may include provision for the date upon which a restoration to the register or the termination or suspension of the effect of registration shall take effect and for the payment by the contractor concerned of the fee, as a penalty, not exceeding the fee payable on an application for registration, as the Board may determine.

[s. 14]

Powers to
suspend
registration etc.
Acts Nos.
15 of 2008 s. 16
4 of 2016 s. 15

18.—(1) The Board shall have power to suspend for a period to be specified by the Board any registered contractor if such registered contractor including its principals or partners—

- (a) is convicted of any offence under this Act;
- (b) is found to have been guilty of any act or omission amounting to improper, disgraceful or gross professional misconduct, after due inquiry held by the Board;
- (c) has a business licence which has not been issued by the Business Registration and Licensing Agency; or
- (d) has procured a business licence without—

- (i) proof of having submitted annual returns to the Registrar of companies the previous year;
- (ii) submitting proof of having paid the registration or annual subscription fees to the Board for the year for which the business licence is being sought.

(2) In addition to the power to suspend registration given under subsection (1), the Board may-

- (a) caution or censure a registered contractor;
- (b) direct that during the period as the Board may specify, the registration of his name shall not have effect;
- (c) direct that his name be deleted from the Register;
- (d) take legal action against the offender.

[s. 15]

Proceedings at
inquiry
Acts Nos.
15 of 2008 s. 17
4 of 2016 s. 16

19.-(1) Upon any inquiry held by the Board under section 18, the contractor whose conduct is being inquired into shall be entitled to appear and be heard.

(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.

(3) All summons or notices issued by the Registrar shall be deemed to be issued by the Board.

(4) All orders under the hand of the Chairman or Vice Chairman of the Board shall be deemed to be issued by the Board.

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

(6) Subject to the provisions of this section and of any regulations made under section 38, the Board shall regulate its own procedure at an inquiry held by it.

Cap. 16

(7) For the purpose of Chapter XI of the Penal Code, an inquiry held by the Board shall be deemed to be judicial proceedings.

[s. 16]

Disobedience to
summons and
refusal to give
evidence
Act No.
4 of 2016 s. 17

20.—(1) A contractor who, having been served with a summons under section 19(2)(b) or an order issued under the provisions of section 19(2)(c), fails to comply or omits, without sufficient cause—

- (a) 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;
- (b) to produce any document in his possession or under his control which are specified in the order,

commits an offence and on conviction shall be liable to a fine of not less than one hundred thousand shillings or to imprisonment for a term not exceeding one year but not less than six months or to both.

(2) A 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 privileges to which he would be entitled as a witness before the High Court.

[s. 17]

Appeals against
decisions of
Board

21.—(1) A contractor aggrieved by a decision of the Board—

- (a) to refuse to register his name;
- (b) to delete his name from a register; or
- (c) to suspend the effect of registration of his name,

may appeal to the Appeals Authority against the decision of the Board and the Appeal Authority may give directions in the manner as it thinks proper.

(2) The Board may appear as a respondent and be heard on any appeal against its decision and, for the purposes of enabling directions to be given as to the costs of any appeal, the Board shall be deemed to be a party thereto, whether or not it shall appear at the hearing of the appeal.

(3) A person aggrieved by the decision of the Appeals Authority may appeal to the High Court.

[s. 18]

Appeals Authority
Act No.
15 of 2008 s. 14

22. The Appeals Authority shall consist of-

- (a) a chairman to be appointed by the Minister;
- (b) a member of the Office of the Attorney General nominated in that behalf by the Attorney General;
- (c) four other members appointed by the Minister who shall be-
 - (i) one registered practising architect nominated by the Architectural Association of Tanzania;
 - (ii) one registered practising quantity surveyor nominated by the Tanzania Institute of Quantity Surveyors;
 - (iii) one registered practising engineer nominated by the Association of Consulting Engineers Tanzania;
 - (iv) one registered contractor nominated by the Contractor's Association.

[s. 19]

Rules regulating
proceedings
before Appeals
Authority

23.-(1) The Minister may, after consultation with the Attorney General, make rules regulating appeals to the Appeals Authority and providing for the taking of further evidence, the fees to be paid, the procedure to be followed and the manner of notifying the Board on the Appeal.

(2) Subject to any rules made under subsection (1), the provisions of section 19 and section 20 shall apply, *mutatis mutandis*, in relation to appeals under section 21 and to persons summoned to give evidence before the Appeals Authority.

[s. 20]

PART V

RESTRICTION ON TRADING AS CONTRACTOR

Use of description
“registered”
and effect of
registration
Act No.
15 of 2008 s. 19

24. A contractor whose name has been entered in the register shall, so long as his name remains in the register, be entitled to adopt and use the style and title “Registered Contractor” or such title thereof as the Board may approve, and to offer his services to the public for valuable consideration or reward or by way of trade, as a registered contractor.

[s. 21]

Restrictions
on carrying
on business as
contractor
Act No.
15 of 2008 s. 20

25.—(1) A person who or any firm which not being—
(a) a registered contractor falsely pretends to be such;
(b) entitled to do so under section 24, uses a style or title of “Registered Contractor” or any other name, type, title or in the circumstances in which it is used that such person is so registered;
(c) a registered contractor, holds himself out other than for the purpose of applying for registration, whether directly or by implication to be a qualified and experienced contractor;
(d) a registered contractor, trades or carries on business as contractor in Tanzania,

commits an offence and on conviction shall be liable to a fine not exceeding ten percent of the contract sum or project value but not less than one percent of the contract sum or project value of an executed contract or contract in hand or five million shillings, whichever is higher, or to imprisonment for a term of not less than three years or to both.

(2) A person who trades under the name, title or style containing any words or phrases implying “Registered Contractor” unless he is registered under this Act, as contractor, commits an offence and on conviction shall be liable to a fine not exceeding ten percent of the contract sum or project value of an executed contract or contract in hand or five million shillings, whichever is higher, or to imprisonment for a term of not less than five years or to both.

(3) A person or firm being registered contractor allows another person who is or firm which is not registered as a contractor to use his name, style or title for the purpose of carrying on business as a contractor commits an offence and on conviction shall be liable to a fine not less than ten percent of the contract sum or project value or five million shillings whichever amount is greater or to imprisonment for a term of not less than one year or to both.

(4) An employer or developer who engages unregistered firms or persons commits an offence and on conviction shall be liable to a fine not exceeding ten percent of the contract sum or project value but not less than one percent of such contract sum or project value or five million shillings whichever amount is greater or to imprisonment for a term of not less than three years or to both.

(5) The provisions of this Act shall have effect notwithstanding anything inconsistent with this Act contained in any particular law other than this Act or any instrument having effect by virtue of any written law other than this Act.

[s. 22]

Bodies of persons
operating as
contractors
Acts No.
15 of 2008 s. 21
4 of 2016 s. 18

26.—(1) A body of persons, whether corporate or unincorporate, shall not carry on the business of contractors unless at least one of the partners or directors who shall also be a shareholder has, as prescribed by the Board, the required technical qualifications, skills and experience necessary to enable him to discharge in satisfactory manner the obligations which he or the firm may reasonably be expected or called upon to undertake as a contractor belonging to the category, type and class in which he or the firm intends to carry on the business of contractors; and that body of persons is duly registered under this Act.

(2) Where a director who is also a shareholder or partner referred to in subsection (1), resigns, becomes incapacitated or dies, such firm or company may, notwithstanding the provisions of subsection (1), be allowed to complete the ongoing project or contract as if the legal representative of

the firm or company were registered contractors and where such firm or company shall fail to secure a technical director within sixty days after the occurrence of the event specified herein, it shall be deregistered by the Board.

(3) A person or firm shall not continue carrying on business as a contractor without first reporting to the Board within twenty-one days after the occurrence of any of the events specified under subsection(2).

(4) A firm or company after fulfilling the conditions for registration, may be registered as a contractor and where so registered, may lawfully carry on business as registered contractor.

(5) The Board may refuse to register a firm or company as contractors or direct the deletion from the register of the name of a firm or company registered, if it is satisfied that, none of the directors or partners has technical qualifications as prescribed by the Board.

(6) References in this Act to the required technical qualifications, experiences, skills or conduct as prescribed by the Board shall be construed as reference to the required technical qualifications, experiences, skills or conduct of persons who are directors or partners as the case may be, or are employed by such firm or company and who are participating or, in case of an application, shall participate in the activities of the firm or company in carrying out its business as registered contractors.

(7) A body of persons which carries on business as contractors in contravention of any of the provisions of this section, commits an offence and on conviction shall be liable to a fine not exceeding five percent of the contract sum or project value but not less than three percent of the contract sum or project value or to an imprisonment for a term of not less than three years or to both.

[s. 23]

Definition of
“carrying on
business” and
“trading as
contractor”.

27. For the purposes of this Act a person shall be deemed to be carrying on business or trading as a contractor if he, for valuable consideration or reward, offers or renders his services as contractor, to another person, whether such services are offered or rendered under a labour contract, contract of service, a contract for services or otherwise.

[s. 24]

PART VI

ACTIVITIES OF THE BOARD AND FINANCIAL PROVISIONS

Board may
delegate its
functions

28. The Board may delegate its functions under this Act to any officer or committee of the Board.

[s. 25]

Accounts and
audit Act No.
15 of 2008 s. 22

29.—(1) The Board shall cause to be kept proper books of accounts and shall, as soon as practicable after the end of each financial year, cause these accounts relating to that financial year together with—

- (a) a statement of income and expenditure during such financial year;
 - (b) a statement of the assets and liabilities of the Board on the last day of that financial year; and
 - (c) cash flow statement of that financial year,
- to be submitted to and audited by duly registered and authorised auditors.

(2) The auditors shall submit the audited accounts to the Board not later than three months after the end of the financial year to which they relate.

(3) The Board Chairman shall submit to the Minister the report referred to under subsection (2).

[s. 26]

Board report
Act No.
15 of 2008 s. 23

30. The Board shall, at the end of each financial year, prepare a report on the activities of the Board during that financial year and submit that report to the Minister.

[s. 27]

Funds of Board

31. The funds and resources of the Board shall consist of-

- (a) registration and annual subscription fees paid by registered contractors;
- (b) such sums as the Board may be provided for the purposes of the Board by Parliament in a form of Government subvention;
- (c) such sums as the Board may receive by way of grant or loan from any person or organisation;
- (d) such sums as the Board may, borrow for the purposes of the Board;
- (e) 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 its functions.

[s. 28]

Power to invest
Cap. 53

32. The Board shall have power to invest its funds in such investments as are authorised by, and subject to such conditions as are prescribed by the Trustee Investments Act in relation to investments of funds by a trustee.

[s. 29]

Annual statement
of accounts
and Registrar's
report to be laid
before National
Assembly

33. The Minister shall cause to be laid before the National Assembly as soon as may be practicable after he has received-

- (a) copies of the statement referred to in subsection (1) of section 26 together with a copy of the auditors' report; and
- (b) a copy of the Registrar's report.

[s. 30]

Minister may give directives

34. The Minister may, by writing under his hand, give the Board directives of a general or specific nature and the Board shall comply with those directives.

[s. 31]

PART VII GENERAL PROVISIONS

Offences
Act No.
15 of 2008 s. 24

35. A person who-

- (a) fraudulently makes, or causes or permits to be made, a false or incorrect entry in the register or any copy thereof;
- (b) fraudulently procures or attempts to procure, whether for himself or for any other person, registration as a contractor or a trading licence for a contractor;
- (c) knowingly and wilfully makes any statement which is false in a material particular, or which is misleading with a view of gaining any advantage, concession or privilege under this Act, whether for himself or for any other person;
- (d) knowingly or willfully disobeys any lawful order, direction, notice or summons issued by the Board or Registrar,

commits an offence and on conviction shall be liable to a fine not exceeding one million shillings but not less than three hundred thousand shillings or to imprisonment for a term of not less than two years or to both.

[s. 32]

Power to compound offences
Act No.
15 of 2008 s. 27

36.-(1) The Registrar may, subject to subsection (2) compound an offence committed under this Act by requiring a person to pay such an amount as the Board may direct.

(2) The power conferred under this section shall be exercised where the person admits in writing that, he has committed an offence and that he agrees to the offence being compounded under this section.

(3) The Registrar shall-

- (a) give a receipt to the person from whom he receives the amount of money;
- (b) submit to the Board in every three months a list of compounded offense that have been compounded within than period.

[s. 32A]

Annual returns
Acts Nos.
15 of 2008 s. 25
4 of 2016 s. 19

37.-(1) A registered contractor shall be required to prepare in the manner prescribed and submits annual returns to the Board.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine of 0.5% of the class limit.

[s. 33]

Regulations by
Minister
Act No.
15 of 2008 s. 26

38.-(1) Subject to the provisions of section 39, the Minister may make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of the foregoing, the Regulations may provide for-

- (a) the conduct of the business of the Board and the procedure it shall follow in any inquiry under this Act;
- (b) the appointment by the Board from amongst its members of subcommittees, committees and the co-option of persons to them;
- (c) the duties of the Registrar;
- (d) persons who shall be entitled to registration, and anything which is permitted or required by this Act to be prescribed, other than anything which may be prescribed by the Minister;
- (e) providing for and regulating disciplinary proceedings against the Registrar and officers appointed by the Board;
- (f) procedures and processes for making stop-orders against defaulting contractors; and

- (g) any other thing or deed which is reasonable and in accordance with the laws and regulations of the country.
[s. 34]

By-laws
Act No.
15 of 2008 s. 28

39.—(1) The Board may with the consent of the Minister make by-laws for the better carrying out of its objects and functions, and without prejudice to the generality of the foregoing may make by-laws—

- (a) prescribing rules for conduct and ethics for contractors;
- (b) categorising, classifying and specifying types of contractors;
- (c) setting class limits for different classes of different types and categories of contractors;
- (d) prescribing conditions to be met for being eligible to be registered in a given class;
- (e) prescribing the fees to be paid on application, registration and annual subscription, the issue of certificates of registration and extracts, copies and lists of, or in relation to, entries in the registers;
- (f) prescribing the manner in which annual returns shall be submitted to the Board;
- (g) prescribing procedures for registration of foreign contractors;
- (h) recommending the reasonable profit margins which contractors may build in the contract for services rendered by them;
- (i) reconciliation parties under dispute failure of which recommending arbitration by authorised arbitrators;
- (j) prescribing certificates, awards and other qualifications which shall be recognised as entitling the holder to registration under this Act;
- (k) prescribing certificates and other awards which may be conferred or granted by the Board;
- (l) prescribing fees for admission to any course, seminar, workshop, conference, symposium or workshop offered or conducted by the Board;

- (m) conducting arbitration for parties under dispute whose contract of agreements stipulate that the Board shall arbitrate their case;
- (n) prescribing conditions to be met for upgrading of classes of contractors;
- (o) evaluating certificates, diplomas, degrees and the attendant academic transcripts for the express purpose of establishing whether or not the certificates, diplomas, degrees and the attendant transcripts meet the minimum acceptable qualification for registration with the Board.

[s. 35]

Notice of closure
construction
Act No.
15 of 2008 s. 29

40.—(1) Where the Board finds that construction works are being undertaken or carried out by a firm or individual who is not registered with the Board or there is an omission or commission which contravenes the provisions of this Act, the Board shall by notice in the prescribed form require such person to stop construction works or otherwise rectify the omissions or commission.

(2) A person who fails to comply with the requirements of the notice issued under subsection (1) commits an offence and on conviction, shall be liable to a fine not less than three million shillings but not more than five million shillings or to imprisonment for term of three years and, in the case of continuing offence, to a fine not exceeding one hundred thousand shillings for everyday or part of a day during which commission of the offence continues.

[s. 35A]

Proceedings of
Board not to be
invalid by reason
of irregularity

41. An act or proceeding of the Board shall not be invalid by reason only of the number of the members not being complete at the time of such act, or proceedings, or of any defect in the appointment of any member, or of the fact that any member was at the time in question disqualified or disentitled to act as such.

[s. 36]

Repeal of
Act No.
35 of 1972

42.—(1) [Repeals the Architect, Quantity Surveyors and Building Contractors (Registration) Act.]

(2) [Omitted.]

[s. 37]

Savings

43.—(1) Notwithstanding the repeal made under section 42, anything done or any action taken or purported to have been done under the repealed Act shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

(2) All subsidiary legislation made or given under the repealed Act which is in force on the commencement of this Act shall be deemed to have been made or given under the provisions of this Act and shall remain in force until revoked or rescinded by subsidiary legislation made or given under this Act.

[s. 38]

SCHEDULE

(Made under section 3(3))

Composition of
Board and tenure
of office
Act No.
15 of 2008 s. 30

1.—(1) The Board shall consist of the Chairman and not less than six and not more than nine other members appointed by the Minister-

- (a) a Chairman of the Board who shall be a person who has positively contributed to the construction industry in Tanzania appointed by the Minister;
- (b) two members from the contractors association being contractors registered in Tanzania;
- (c) one legally qualified person appointed from the Office of the Attorney General;
- (d) one member who shall be a registered architect or a registered quantity surveyor or a registered engineer who shall be appointed from the Ministry responsible for Works;
- (e) one member who shall be a registered architect who shall be appointed from the Architectural Association of Tanzania;
- (f) one member who shall be a registered engineer who shall be appointed from the Association of Consulting Engineers Tanzania;

(g) one member who shall be a registered quantity surveyor who shall be appointed from the Tanzania Institute of Quantity Surveyors; and

(h) one member appointed by the Minister from the business community.

(2) A member of the Board shall hold office for a minimum period of three years unless he dies, resigns or otherwise vacates his office or until such a time as his appointment is revoked by the Minister in the national interest.

(3) One third of the members of the Board shall be phased out upon the expiry of a three year term except when the whole Board is being dissolved.

(4) The Minister may fill any casual vacancy occurring in the membership, and may revoke the appointment of any member if it is in the national interest so to do, and appoint a replacement.

(5) A member may resign by giving notice in writing to the appointing authority of his intention to do so.

(6) The tenure of office of the Board shall be three years and members of the Board shall be eligible for re-appointment.

Election of Vice-Chairman

2. The members shall elect a Vice-Chairman of the Board from amongst their number.

Meetings of Board

3.-(1) Subject to the provisions of subparagraph (2) of this paragraph, the Board shall meet not less than six times in every year and all meetings of the Board shall be convened by the Chairman, or in his absence notified in writing, or incapacitated through illness, the Vice-Chairman, who shall appoint a suitable time, place and date for the holding of each meeting.

(2) The Chairman, or in his absence notified in writing, or incapacitated through illness, the Vice-Chairman, shall convene a special meeting of the Board on a request in writing signed by not less than a simple majority of the total number of members of the Board for such a meeting and shall cause the meetings to be held within twenty-one days of the receipt by him of such request.

(3) The Chairman, or in his absence notified in writing, the Vice-Chairman, shall preside at the meeting of the Board and in the absence of both Chairman and the Vice-Chairman with written apology the members present at the meeting shall elect one of their number to be a Chairman for that meeting.

Quorum and voting at meetings

4.-(1) A simple majority of the total number of members in office shall constitute a quorum at any meeting of the Board.

(2) All acts, matters and things authorised to be done by the Board shall be decided by resolution of the members present.

(3) A decision of the majority of members present and voting at a meeting of the Board shall be deemed to be a decision of the Board.

(4) Every member of the Board shall have one vote and in the event of an equality of votes, the Chairman of the meeting shall have second or casting vote in addition to his deliberative vote.

(5) Notwithstanding the provisions of subparagraph (1), (2), (3) and (4) where the Chairman so directs, a decision may be made by the Board without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views, but any member shall be entitled to require that any such decision shall be deferred until the subject matter is considered at a meeting of the Board:

Provided that, a member of the Board who has a strong objection to the decision of the Board shall have the right and entitlement to have his strong objection recorded in the minutes of the Board.

Minutes of meeting of Board	5. Minutes in proper form of each meeting of the Board shall be kept and signed by both the Chairman and Secretary of the meeting after adoption by the Board.
Procedures	6. Subject to the provisions of this Schedule and of any regulations which may be made under this Act, the Board shall have power to regulate its own procedure.
Seal of Board	7. The seal of the Board shall not be affixed to any instrument except in the presence of the Chairman, the Vice-Chairman, the Secretary, and one other member of the Board.
Registrar to be Secretary	8. The Registrar shall act as the Secretary of the Board and shall be entitled to be present and to speak, but not to vote, at the meetings of the Board.
Staff of Board	9. The Board may appoint such other officers as it may consider necessary on such terms and conditions as may be prescribed by regulations made under sections 38 and 39 of this Act.

