

**CONSTRUCTION INDUSTRY DEVELOPMENT BOARD ACT**

Act 35 of 2008 – 1 February 2009

*(unless otherwise indicated)*

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**CONSTRUCTION INDUSTRY DEVELOPMENT BOARD ACT**

**1. Short title**

This Act may be cited as the Construction Industry Development Board Act.

**2. Interpretation**

(1) In this Act—

“authorised officer” means an employee of the Board designated as such by the Executive Director under section 15;

“Board” means the Construction Industry Development Board established under section 4;

“Chairperson” means the Chairperson of the Council appointed under section 8;

“civil works” includes any works relating to—

- (a) a road, a railway, a tramway, an aircraft runway, a canal, a waterway, a harbour, a port or a marina;
- (b) a line or cable for electricity or telecommunications;
- (c) a pipeline for water, gas, oil, sewerage or other material;
- (d) a path, a pavement, a ramp, a tunnel, a slipway, a dam, a well, an aqueduct, a drain, a levee, a seawall or a retaining wall; and
- (e) any works, apparatus, fittings, machinery or plant associated with any works referred to in paragraph (a);

“committee” means a committee appointed by the Council under section 10;

“construction industry” means the industry dealing with construction works and construction services;

“construction services” includes—

- (a) the supply of plant and materials for construction works by sale, hire or otherwise; and
- (b) such other services as may be prescribed;

“construction works” includes, whether for a permanent purpose or not, any of the following works—

- (a) reclaiming of land, draining or preventing subsidence of land, movement or erosion of land;
- (b) installing, altering, repairing, restoring, maintaining, extending, dismantling, demolishing or removing any works, apparatus, fittings, machinery or plant, associated with any works referred to in paragraph (a);
- (c) constructing a building or structure, that forms or will form part of land or the sea bed, whether above or below it;
- (d) fixing or installing any thing to a building or structure, including—
  - (i) fittings for civil works, electricity, gas, water, fuel oil, air sanitation, irrigation, telecommunications, air conditioning, heating, ventilation, fire protection or cleaning; and
  - (ii) lifts, escalators, insulation, furniture and furnishings;
- (e) altering, repairing, restoring, maintaining, extending, dismantling, demolishing or removing any thing to a building or structure or any fittings as described in paragraph (d);
- (f) civil works;

- (g) any work that is preparatory to, or necessary for the completion of, any work referred to in paragraphs (a) to (e), including—
  - (i) site or earth works, excavating, earthmoving, tunneling or boring;
  - (ii) laying foundations;
  - (iii) erecting, maintaining or dismantling temporary works, a temporary building or temporary structure, including a crane or other lifting equipment, and scaffolding;
  - (iv) cleaning, painting, decorating or treating any surface; and
  - (v) site restoration and landscaping;
- (h) such other works as may be prescribed;

“consultancy services”—

- (a) means all aspects of architectural, engineering, quantity surveying, project management and any other services related to construction works; and
- (b) includes services related to such other fields of specialisation as may be prescribed;

“consultant”—

- (a) means a firm that provides consultancy services in the construction industry; and
- (b) in relation to sections 23 to 26, includes a foreign consultant;

“contractor”—

- (a) means a person who, or a firm that, carries out construction works in the construction industry; and
- (b) in relation to sections 23 to 26, includes a foreign contractor;

“Council” means the Council referred to in section 8;

“Executive Director” means the person appointed as such under section 11;

“financial year” means the period starting on 1 July and ending on 30 June in the following year;

“foreign consultant” means a firm—

- (a) that provides consultancy services in the construction industry; and
- (b) the control of which is vested in a person who is a non-citizen, with relevant professional qualifications;

“foreign contractor” means—

- (a) in the case of an individual, a contractor who is a non-citizen and carries out construction works in the construction industry; or
- (b) a firm, the control of which is vested in a person, who is a non-citizen, that carries out construction works in the construction industry;

“General Fund” means the General Fund established under section 31;

“member” —

- (a) means a member of the Council; and
- (b) includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of public infrastructure is assigned;

“non-citizen” has the same meaning as in the Non-Citizens (Property Restriction) Act;

“project management” means the planning, supervision and control of a construction project;

“Register” means the Register of consultants or Register of contractors, as the case may be, specified in section 18.

(2) – (3) —

[S. 2 amended by s. 8 (a) of Act 38 of 2011 w.e.f. 2 April 2012; s. 3 of Act 2 of 2015 w.e.f. 26 March 2015; s. 3 of Act 31 of 2016 w.e.f. 1 March 2017.]

### **3. Application of Act**

(1) This Act shall not apply to—

- (a) any person who undertakes construction works of the value specified in the First Schedule;
- (b) a statutory corporation which acts as consultant or contractor for any consultancy services or construction works, as the case may be, for or on behalf of the Government;
- (c) a foreign consultant or foreign contractor that provides consultancy services or undertakes construction works, as the case may be, in relation to a project under an agreement or arrangement between Mauritius and a foreign State.

(2) (a) Where a statutory corporation acts as a consultant or contractor pursuant to subsection (1) (b), that statutory corporation shall inform the Council accordingly.

(b) Where a foreign consultant or foreign contractor provides consultancy services or undertakes construction works pursuant to subsection (1) (c), the Ministry or such other body to whom responsibility for that project is assigned shall inform the Council of the name of the foreign consultant or foreign contractor.

[S. 3 amended by s. 4 of Act 31 of 2016 w.e.f. 1 March 2017.]

### **4. The Board**

There is established for the purposes of this Act the Construction Industry Development Board which shall be a body corporate.

## **5. Objects of Board**

The objects of the Board shall be to—

- (a) promote the development and improvement of the construction industry;
- (b) promote sustainable growth of the construction industry;
- (c) promote and encourage the participation of the small and medium enterprises in the construction industry;
- (d) promote and assist in the export of services relating to the construction industry;
- (e) promote and stimulate quality assurance in the construction industry;
- (f) promote the awareness of the need for a safe and healthy work environment in the construction industry;
- (g) promote and establish best practice in the construction industry;
- (h) promote research and development relating to the construction industry; and
- (i) facilitate communication between stakeholders of the construction industry.

## **6. Functions of Board**

The functions of the Board shall be to—

- (a) implement Government policy relating to the construction industry;
- (b) regulate and register providers of construction works and construction services;
- (c) exercise regulatory functions in respect of the construction industry, including the registration of consultants and contractors;
- (d) provide advisory services to the construction industry and the public in general;
- (e) publish an annual list of registered consultants and contractors;
- (f) advise and make recommendations to the Minister on matters relating to the construction industry;
- (g) encourage the standardisation and improvement of construction materials and techniques;
- (h) develop standard forms of construction agreements and contracts;
- (i) develop and maintain a construction industry information system;
- (j) develop and promote training programmes for operators of the construction industry;
- (k) advise relevant authorities on human resource development of the construction industry;
- (l) conduct surveys on the construction industry;

- (m) entertain complaints in connection with construction works and construction services and, where necessary, refer them to appropriate authorities;
- (n) publish periodically indicative schedules of rates for construction works; and
- (o) perform such other functions as may be necessary to further its objects.

## **7. Powers of Board**

The Board may—

- (a) do every such act as may be necessary for it to achieve its objects and perform its functions, and in particular—
  - (i) register consultants and contractors in the construction industry;
  - (ii) cancel, suspend or reinstate the registration of any consultant or contractor;
  - (iii) charge a reasonable fee in respect of any services provided by the Board;

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- (b) subject to the approval of the Minister, accept grants or take a loan.

## 8. The Council

(1) The Board shall be administered by the Construction Industry Development Council.

(2) The Council shall consist of—

- (a) a Chairperson, to be appointed by the Minister;
- (b) a representative of the Ministry;
- (c) a representative of the Ministry responsible for the subject of environment;
- (d) a representative of the Ministry responsible for the subject of local government;
- (e) a representative of the Professional Architects' Council established under the Professional Architects' Council Act;
- (f) a representative of the Professional Quantity Surveyors' Council established under the Professional Quantity Surveyors' Council Act;
- (g) a representative of the Council of Registered Professional Engineers of Mauritius established under the Registered Professional Engineers Council Act;
- (h) a representative of the small and medium enterprises of the construction sector, to be appointed by the Minister;
- (i) a representative of an association of contractors for building and civil engineering works, to be appointed by the Minister;
- (j) a representative of an association of contractors for mechanical and electrical works, to be appointed by the Minister;
- (k) a person having wide experience in the construction industry, to be appointed by the Minister.

(3) Every member of the Council, other than a member referred to in subsection (2) (b), (c) and (d), shall hold office for a period of 2 years.

(4) No member other than an ex officio member may serve for more than 2 consecutive terms, unless the Minister reappoints him on account of his exceptional experience or the importance of his continued membership for the purpose of implementing a plan of action that he initiated.

(5) A member shall immediately vacate his office—

- (a) if he is convicted of any offence involving fraud or dishonesty;
- (b) if he has been removed from an office of trust on account of his misconduct;
- (c) for any reason stated in section 37 (3) of the Interpretation and General Clauses Act.

(6) Every member of the Council shall be paid from the General Fund such fees and allowances as the Minister may determine.

[S. 8 amended by s. 4 of Act 2 of 2015 w.e.f. 26 March 2015.]

## **9. Meetings of Council**

(1) Subject to subsections (2) to (5), the Council shall regulate its meetings and proceedings in such manner as it may determine.

(2) The Council shall meet at least once a month at such place and time as the Chairperson may determine.

(3) At any meeting of the Council, 6 members shall constitute a quorum.

(4) (a) The Council may co-opt such person as may be of assistance in relation to any matter brought before it.

(b) A person co-opted under paragraph (a) shall have no right to vote.

(5) (a) The Chairperson shall preside over every meeting of the Council.

(b) In the absence of the Chairperson, the members present shall, in relation to that meeting, elect one of them to act as Chairperson and exercise the functions and have the powers of the Chairperson.

[S. 9 amended by s. 5 of Act 2 of 2015 w.e.f. 26 March 2015.]

## **10. Committees**

(1) The Council may appoint such committees as it considers appropriate to assist it in carrying out its functions.

(2) Any committee may consist of members of the Council and such other persons as the Council thinks fit to designate.

(3) Every committee shall be subject to, and act in accordance with, any directive given to it by the Council.

(4) Every committee shall regulate its meetings and proceedings in such manner as it may determine.

(5) A committee may invite any person to attend any of its meetings for the purpose of advising it on any matter under discussion and the person so invited shall not be entitled to vote at any such meeting.

(6) Every member of a committee or any person invited under subsection (5) to attend any meeting of a committee may be paid such fees and allowances as the Council may determine.

## **11. Executive Director**

(1) There shall be an Executive Director who shall be the chief executive officer of the Board.

(2) The Executive Director shall be appointed by the Council, with the approval of the Minister, on such terms and conditions as it may determine.

(3) The Executive Director shall be responsible to the Council for the proper administration and management of the functions and affairs of the Board in accordance with the policy laid down by the Council.



(4) The Executive Director shall—

- (a) attend every meeting of the Council;
- (b) take part in the deliberations of the Council but shall not have the right to vote; and
- (c) have the custody of all documents relating to the Board and keep minutes of all proceedings of the Council.

## **12. Appointment of staff**

(1) The Council may employ, on such terms and conditions as it thinks fit, such persons as may be necessary for the proper discharge of the functions of the Board.

(2) Any person appointed under subsection (1) shall be under the administrative control of the Executive Director.

## **13. Conditions of service of staff**

The Council may, with the approval of the Minister, make provision to govern the conditions of service of employees and, in particular, to deal with—

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given to employees;
- (b) appeals by employees in case of dismissal or any other disciplinary measures; and
- (c) the establishment and maintenance of provident and pension fund schemes, medical schemes and the contribution payable to and the benefits recoverable from those schemes.

## **14. Disclosure of interest**

Where a member of the Council, the Executive Director or any employee has a direct or indirect interest in any matter brought before the Council, he—

- (a) shall immediately inform the Council; and
- (b) shall not participate in the deliberations or any part of the decision making process in relation to that matter.

## **15. Powers of authorised officers**

(1) The Executive Director may designate in writing such employees as he thinks fit to be authorised officers for the purpose of ascertaining whether the provisions of this Act or any regulations made under this Act are being complied with.

(2) An authorised officer may, for the purposes of discharging his functions or exercising his powers—

- (a) enter, at all reasonable times, a construction site; and
- (b) make such enquiry or inspection as he thinks fit.

(3) In the course of an enquiry or an inspection under this section, an authorised officer may—

- (a) direct any person to submit information on the registration of a consultant or contractor;
- (b) require the production of any records kept by a consultant or a contractor in the discharge of his duties and may make copies or take extracts of such records;
- (c) retain possession of the documents or records for such period as is reasonably necessary for the purpose of the enquiry to which the documents or records relate;
- (d) on a construction site—
  - (i) inspect such equipment as he may consider necessary;
  - (ii) take or remove samples of any substance or things found on the site free of any charge;
  - (iii) take photographs and measurements and make sketches and recordings on the site;
  - (iv) require any person to state his name and residential address;
  - (v) require any person to give him such assistance as he may require.

(4) Every authorised officer shall produce, on request being made, his authority to any person referred to in subsection (3).

(5) On completion of his enquiry or inspection, the authorised officer shall submit to the Executive Director a report together with any information obtained and documents produced to him.

(6) The Executive Director shall, after consideration of the report and the information and documents submitted under subsection (5), make such recommendations to the Council as he considers appropriate.

## **16. Protection from liability**

No liability, civil or criminal, shall attach to the Council, any member of the Council, or member of a committee, or officer of the Board, for any damage or loss suffered by any person in consequence of any act or thing which was done, or omitted to be done, in good faith in the exercise or performance of a power or function under this Act.

## **17. Powers of Minister**

The Minister may give directions of a general character to the Board, not inconsistent with the objects of this Act, and the Board shall comply with such directions.

## 18. Register

(1) The Council shall keep and maintain a Register at its office, in which shall be entered—

- (a) the name, business address, grades and field or area of specialisation, as the case may be, of every consultant or contractor registered under this Act;
- (b) such other particulars as the Council may, from time to time, determine.

(2) The Register shall be made available for inspection by members of the public at all reasonable times during office hours.

[S. 18 amended by s. 6 of Act 31 of 2016 w.e.f. 1 March 2017.]

(S. 18 came into operation on 1 August 2014.)

## 19. Registration of consultant and contractor

(1) No person shall offer his services as a consultant or contractor unless he is registered under this Act.

(2) An application for registration as a consultant or contractor shall be made in such form and manner as the Council may approve and shall be accompanied by such non-refundable processing fee as may be prescribed.

(3) (a) The Council may require an applicant to attend an interview to be conducted by a panel constituted of members and such other persons as the Council may appoint.

(b) The Council may reject an application where the applicant fails, without reasonable excuse, to attend an interview.

(4) The Council may require an applicant to furnish such information as is necessary to determine—

- (a) his standard of performance and his track record;
- (b) his financial capability to ensure financial commitments for the works or services he will be undertaking;
- (c) whether he has the necessary resources to undertake construction works and services corresponding to the classes, grades, fields or areas of registration applied for, as the case may be; and
- (d) whether he is a fit and proper person to be registered.

(5) The Council shall not grant an application for registration where—

- (a) the applicant is adjudged bankrupt or declared insolvent, or, in the case of a corporate body, is the subject of a winding up order;
- (b) any of the principals, associates or partners of a consultant or contractor is found guilty of professional misconduct by a recognised professional body and his participation is, in the opinion of the Council, material for the grant of the registration;

- (c) the applicant is convicted of an offence involving fraud or dishonesty; or
- (d) the applicant submits misleading or insufficient information for the purposes of his registration.

(6) Where the Council grants an application under this section, it shall—

- (a) determine—
  - (i) the field of specialisation of the consultant, as specified in Part I of the Second Schedule;
  - (ii) the class of works, grade and the area of specialisation, where applicable, of the contractor, as specified in Parts II and III of the Second Schedule and the Third Schedule, respectively; or
  - (iii) any limitation to construction works the contractor is subject to,in respect of which the registration is granted;
- (b) on payment of such fee as may be prescribed, issue a certificate of registration to the applicant on such other terms and conditions as it may determine;
- (c) assign a registration reference to every registered consultant or contractor.

(7) A certificate of registration shall not—

- (a) be transferable;
- (b) entitle—
  - (i) a consultant to undertake or implement any project which is not within the field of specialisation;
  - (ii) a contractor to undertake or implement any construction works which is not within the class of works, grade and area of specialisation, as the case may be,

in respect of which the certificate is issued.

(8) (a) Where there is any change in the information provided at the time of application for registration as consultant or contractor, the registered consultant or contractor shall, as soon as practicable, notify the Council of such change.

(b) The Council may, where there is any change referred to in paragraph (a), issue, on payment of such fee as may be prescribed, a new certificate of registration to the consultant or contractor, as the case may be, and on such other terms and conditions as it may determine.

[S. 19 amended by s. 8 (b) of Act 38 of 2011 w.e.f. 2 April 2012; s. 8 of Act 27 of 2013 w.e.f. 21 December 2013; s. 6 of Act 2 of 2015 w.e.f. 26 March 2015; s. 7 of Act 31 of 2016 w.e.f. 1 March 2017.]

(S. 19 came into operation on 1 August 2014.)

**20. Provisional or temporary registration of foreign consultant or foreign contractor**

(1) No foreign consultant or foreign contractor shall provide consultancy services or carry out construction works in Mauritius, as the case may be, unless he or it is temporarily registered under this Act.

(2) (a) A foreign consultant or foreign contractor that or who intends to provide consultancy services or carry out construction works in Mauritius in respect of a project shall—

- (i) before bidding for the project, apply, subject to subsection (5), for provisional registration in such form and manner as the Council may approve; or
- (ii) where he is awarded a contract for the project, apply for temporary registration in such form and manner as the Council may approve.

(b) An applicant shall pay such non-refundable processing fee as may be prescribed.

(3) After considering an application under subsection (2), the Council may grant the application and shall issue to the applicant—

- (a) a certificate of provisional registration; or
- (b) a certificate of temporary registration,

as the case may be, subject to the payment of such fee as may be prescribed and on such terms and conditions as it may determine.

(4) (a) A certificate of provisional registration shall be valid for a period of one year.

(b) A certificate of temporary registration shall lapse on completion of the contract or on the earlier determination of the contract.

(5) Notwithstanding subsection (2) (a) (i), where a foreign consultant or foreign contractor has been issued with a certificate of provisional registration for a project, that consultant or contractor shall, in relation to another project, not apply for another certificate of provisional registration if the certificate he holds qualifies him to bid for that other project.

(6) A foreign consultant or foreign contractor who holds a provisional registration which does not qualify him to bid for another project may apply for another provisional registration in the field of specialisation or class of works or grade or area of specialisation required for that project.

(7) (a) This section shall not apply to a—

(i) foreign consultant—

- (A) who has been providing consultancy services in the construction industry during the 10 years preceding 1 March 2017; and

- (B) where at least two thirds, or such other percentage as may be prescribed, of the total number of its employees are citizens of Mauritius; or
- (ii) foreign contractor—
  - (A) who has been carrying construction works in the construction industry during the 20 years preceding 1 March 2018; and
  - (B) where at least two thirds, or such other percentage as may be prescribed, of the total number of its or his employees are as citizens of Mauritius.

(b) A foreign consultant or contractor referred to in paragraph (a) shall, for the purpose of registration, make an application under section 19.

[S. 20 repealed and replaced by s. 8 (c) of Act 38 of 2011 w.e.f. 2 April 2012; amended by s. 8 of Act 27 of 2013 w.e.f. 21 December 2013; s. 8 of Act 31 of 2016 w.e.f. 1 March 2017.]

(S. 20 came into operation on 1 August 2014.)

## **21. Duration and renewal of registration**

(1) A registration under section 19 shall, unless previously suspended or cancelled, continue to be in force until 30 June next following the date when it was issued or last renewed, but shall, subject to section 22, be renewable for yearly periods ending 30 June.

(2) (a) An application for the renewal of a registration under section 19 shall be made to the Council in such form and manner as it may determine.

(b) The Council may renew or reject the application.

[S. 21 repealed and replaced by s. 9 of Act 31 of 2016 w.e.f. 1 March 2017.]

(S. 21 came into operation on 1 August 2014.)

### **21A. Submission of bidding documents**

When inviting bids through open advertised bidding or selective bidding where foreign consultants or foreign contractors would be invited, a public body shall, after the publication of the notice of bid, submit a complete set of the bidding documents to the Board.

[S. 21A inserted by s. 10 of Act 31 of 2016 w.e.f. 1 March 2017.]

## **22. Non-renewal of registration**

(1) Where the holder of a certificate of registration or certificate of temporary registration applies for renewal of his certificate after the expiry of the period of validity of the certificate, but within 30 days thereof, he shall, in addition to the renewal fee, be liable to a surcharge of 25 per cent of the renewal fee.

(2) A registration or temporary registration shall lapse if it is not renewed within 30 days of the expiry of its period of validity.

(3) The registration of a consultant or contractor whose certificate of registration or certificate of temporary registration has lapsed shall be struck off from the Register.

[S. 22 amended by s. 11 of Act 31 of 2016 w.e.f. 1 March 2017.]

(S. 22 came into operation on 1 August 2014.)

### **23. Cancellation and suspension of registration**

(1) The Council may cancel the registration of a consultant or contractor where—

- (a) the consultant or contractor—
  - (i) is adjudged bankrupt or declared insolvent or, in the case of a corporate body, is the subject of a winding up order;
  - (ii) obtains his certificate of registration by fraud or misrepresentation;
  - (iii) abandons, without good cause, any consultancy service or construction work, as the case may be, undertaken by him;
  - (iv) is negligent in the provision of his services;
  - (v) ceases to act as consultant or contractor;
  - (vi) contravenes this Act or any regulations made under it;
  - (vii) fails to comply with any condition specified in his certificate of registration;
- (b) any of the principals, associates or partners of a consultant or contractor is found guilty of professional misconduct by a recognised professional body and his participation is, in the opinion of the Council, material for the grant of the registration.

(2) Before cancelling the registration of any consultant or contractor under subsection (1) (a) (ii) to (vii) and (b), the Council shall, by notice in writing, require him to show cause in writing, within 15 days of the date of the service of the notice, why the registration shall not be cancelled.

(3) The Council may, pending its decision to cancel a registration under this section, and where, in its opinion, the circumstances so require, suspend the registration of a consultant or contractor in any of the cases specified in subsection (1) (a) (ii) to (vii) and (b).

(4) The registration of—

- (a) any contractor shall be automatically cancelled on his death;
- (b) any consultant or contractor operating as a company, firm, association or partnership may be cancelled on the death, or deregistration by a professional body, any of the principals, associates or partners whose participation or professional qualification is, in the opinion of the Council, material for the grant of its application for registration.

(5) The Council shall inform the consultant or contractor of its decision under subsection (1), (3), or (4) (b) within 7 days of its decision, by notice in writing, specifying the reasons for its decision.

(6) A consultant or contractor who is informed that his certificate of registration is cancelled or suspended shall, within 7 days of being so informed by the Council, surrender his certificate.

(S. 23 came into operation on 1 August 2014.)

#### **24. Publication**

(1) The Council shall, not later than 30 June of every year, publish in the Gazette an annual list of registered consultants and contractors.

(2) The Council shall publish in the Gazette and in at least one daily newspaper any cancellation or suspension.

[S. 24 amended by s. 12 of Act 31 of 2016 w.e.f. 1 March 2017.]

(S. 24 came into operation on 1 August 2014.)

#### **25. Appeal**

(1) Any consultant or contractor who is aggrieved by any decision of the Council may, within 21 days of the notification to him of the decision, notify the Permanent Secretary of his intention to appeal, stating his grounds of appeal.

(1A) The aggrieved consultant or contractor shall, for the hearing of the appeal, pay such non-refundable fee as may be prescribed.

(2) The Permanent Secretary shall inform the Minister of the appeal and the Minister shall, within 15 days of the receipt of the notice of appeal, appoint an ad hoc Committee to hear the appeal.

(3) The ad hoc Appeal Committee shall comprise—

- (a) a barrister of not less than 3 years' standing as Chairperson;
- (b) a public officer of a grade not less than Deputy Permanent Secretary; and
- (c) a consultant or contractor having wide experience in the field.

(4) The ad hoc Committee shall determine the appeal within 2 months of the date it has been appointed to hear an appeal, and may affirm, vary or reverse the decision of the Council, stating its reasons for doing so.

(5) The Secretary of the ad hoc Appeal Committee shall be a public officer designated by the Permanent Secretary.

(6) The ad hoc Appeal Committee shall regulate its own procedure.

(7) The ad hoc Appeal Committee shall communicate its decision to the Minister, the Council and the appellant.

[S. 25 amended by s. 13 of Act 31 of 2016 w.e.f. 1 March 2017.]

(S. 25 came into operation on 1 August 2014.)

#### **26. Offences**

(1) Any consultant or contractor who contravenes section 19 (1), (7) or 20 (1), shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.



(2) Any person who obstructs, hinders, opposes or molests, or fails without reasonable excuse to comply with a requirement or direction of, an authorised officer in the performance of his duties under this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

### **27. Jurisdiction**

Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a District Magistrate shall have jurisdiction to try an offence under this Act or any regulations made under this Act and inflict the penalties provided under this Act.

### **28. Exemption from duties and charges**

Notwithstanding any other enactment, the Board shall be exempt from the payment of any duty, charge, fee, rate or tax.

### **29. Service of documents**

(1) Any summons, notice or other document required or authorised to be served on the Board may be served by delivery to the Executive Director at the registered office of the Board.

(2) Service of process by, on or on behalf of, the Executive Director shall be equivalent to service by, on or on behalf of, the Board.

### **30. Execution of documents**

(1) Every document shall be deemed to be executed by or on behalf of the Council if signed by the Chairperson and the Executive Director.

(2) Where the Chairperson is absent, any other member designated by the Council may sign on his behalf.

### **31. General Fund**

(1) The Council shall establish a General Fund—

- (a) into which all monies received by the Board, including such grants as the Board may receive from the Government, shall be paid;
- (b) out of which all payments required to be effected by the Board shall be met, including the remuneration, allowance, pension or other benefits, payable to any person under this Act.

(2) The income and assets of the Board shall be applied towards the promotion of the objects of the Board.

### **32. Donations and legacies**

Article 910 of the Code Civil Mauricien shall not apply to the Board.

**33. Annual report**

(1) The Board shall, not later than 6 months after the close of a financial year, issue an annual report on its activities and audited accounts for that financial year.

(2) The annual report shall be submitted to the Minister for his approval and shall be laid before the Assembly.

**34. Regulations**

(1) The Minister may, after consultation with the Council, make such regulations as he thinks fit for the purposes of this Act.

(2) Regulations made under subsection (1) may provide for—

- (a) the levying of fees, the payment of charges or surcharges and the imposition of penalties; and
- (b) the amendment of the Schedule.

(3) Any regulations made under subsection (1) may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

**35. – 36. —**

**37. Transitional provisions**

(1) —

(2) —

(2A) (a) Any firm which has been providing consultancy services on 1 August 2014, shall, within 6 months of the commencement of sections 19 and 20, apply for registration as consultant or for provisional or temporary registration as foreign consultant, as the case may be, under this Act.

(2B) Notwithstanding sections 19 and 20, a firm or person that was providing consultancy services, or undertaking construction works, in Mauritius immediately before 1 August 2014 may continue to provide consultancy services or undertake construction works for such period as may be prescribed, without being registered as a consultant, contractor, foreign consultant or foreign contractor, as the case may be.

(3) Where this Act does not make provision for any transitional measure from the repealed Act to this Act, the Minister may make necessary regulations for such transition.

[S. 37 amended by s. 8 (d) of Act 38 of 2011 w.e.f. 2 April 2012; s. 7 of Act 2 of 2015 w.e.f. 1 February 2015.]

**38. —**

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**FIRST SCHEDULE**

[Section 3]

**Amount in rupees (exclusive of VAT)**

Value of construction works                      Less than 500,000

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**SECOND SCHEDULE**

[Section 19]

**PART I – FIELDS OF SPECIALISATION OF CONSULTANTS**

Architecture

Civil engineering, including structural engineering, geotechnical engineering, transportation engineering, offshore engineering, process engineering and water resources engineering

Environmental engineering

Interior design

Landscape architecture

Mechanical, electrical and plumbing (MEP) services, including building services engineering, process engineering and fire engineering

Project management in construction

Quantity surveying

Urban planning

**PART II – CLASSES OF WORKS OF CONTRACTORS**

1. Building construction works
2. Civil engineering construction works
3. Mechanical, electrical and plumbing works

**PART III – GRADES OF CONTRACTORS**

<b>Grading Designation</b>	<b>Value of contract that a contractor is allowed to undertake (exclusive of VAT) (Rs)</b>
A	Up to any amount above 250 million
B	Up to 250 million
C	Up to 150 million
D	Up to 75 million
E	Up to 50 million
F	Up to 25 million
G	Up to 10 million
H	Up to 5 million

[Second Sch. repealed and replaced by s. 14 of Act 31 of 2016 w.e.f. 1 March 2017; amended by reg. 3 of GN 140 of 2018 w.e.f. 1 November 2018.]

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**THIRD SCHEDULE**

[Section 19]

**AREAS OF SPECIALISATION OF CONTRACTORS**

**PART I – BUILDING CONSTRUCTION WORKS**

Reference	Areas of specialisation	Description
B 01	Prefabricated building and industrial plant	Construction of building and industrial plant using prefabricated components and systems
B 02	Steel framed building and industrial plant	Construction of steel framed building and industrial plant including towers
B 03	Piling and diaphragm walling	Installation of all types of piling-sheet piles, piling-steel piles, driven precast reinforced and prestressed concrete piles, bored-cast in situ piles and timber piles, including other patented piling systems and diaphragm walling works
B 04	Asbestos handling	All building works including demolition and construction where asbestos is used for insulation and coating

**PART II – CIVIL ENGINEERING CONSTRUCTION WORKS**

Reference	Areas of specialisation	Description
CE 01	Marine structure, offshore and underwater construction	Construction of marine structure including jetty, port, wharf, harbour, sea and river wall and out wall, offshore and underwater construction works
CE 02	Tunneling and underpinning	Tunneling and underpinning works
CE 03	Dredging and reclamation works	Dredging in canal, river and offshore works
CE 04	Railway track	Installation of railway track, distressing of rail, and track railway signaling
CE 05	Oil and gas pipeline	Installation, maintenance and repair of oil and gas pipeline
CE 06	Pipe laying, water storage and supply and sewage works	Construction of dam, reservoir, aqueduct, treatment plant, network pipe laying and sewerage works

THIRD SCHEDULE—continued

PART III – MECHANICAL, ELECTRICAL AND PLUMBING WORKS

Reference	Areas of specialisation	Description
M 01	Medical equipment	Installation, testing, commissioning, maintenance and repairs of medical equipment including, compressed air system, hot water installation, steriliser and autoclave, medical gas installation, hydrotherapy system, dental chair and mortuary refrigerator
M 02	Drilling rig	Erection, testing, commissioning, maintenance and repairs of offshore rig (Jack-up tender assisted, drill ship, self-contained/platform rig, semi- submersible) onshore rig, conventional workover rig and swamp barge
E 01	Building automation system, energy generation system and building management and maintenance system	Building automation control systems, industrial and process control systems including installation, testing, commissioning, maintenance and repairs of microprocessors or computer based building control system and industrial process control system Installation, testing, commissioning, maintenance and repairs of energy generation systems
E 02	Miscellaneous specialisation	Installation, testing, commissioning, maintenance and repairs of surgical/operating theatre table and lights, radiography equipment, nurse call system, electronic scoreboard, uninterruptible power supply (UPS) system, passenger boarding bridges, baggage handling systems, instrument landing systems, visual aids and other airport related equipment and systems

[Third Sch. repealed and replaced by s. 14 of Act 31 of 2016 w.e.f. 1 March 2017.]

