

INDEPENDENT STATE OF PAPUA NEW GUINEA

No. 4 of 2007

AN ACT

Entitled

*Professional Engineers (Registration) (Amendment) Act 2007*

Being an Act—

- (a) to provide for the establishment of a Professional Engineers Registration Board; and
- (b) to provide for the registration of professional engineers; and
- (c) to provide for a Registrar of registered engineers; and
- (d) to provide for the regulation and control of the profession of engineering; and
- (e) to reserve identifying titles for registered engineers; and
- (f) for related purposes.

MADE by the National Parliament.

PART I.—PRELIMINARY.

1. Definitions.

In this Act, unless the contrary intention appears—

"Board" means the Professional Engineers Registration Board established under this Act;

"Institution" means the Institution of Engineers of Papua New Guinea; and

"Minister" means the Minister responsible for this Act;

"professional engineering work" includes work that—

- (a) requires the understanding of the scientific principles which form the basis of the engineering disciplines, and the quantitative expression of these principles through analytical mathematics (where appropriate) and requires education in depth in a branch of engineering or in any other related disciplines; and
- (b) is essentially mental in nature, and varied, involving competence in a branch of engineering and leadership, judgment, originality and responsibility in the economical solution of engineering problems and
- (c) includes the application, of professional engineering knowledge and experience, to activities such as design, planning, applied research and development, education and training, including the organization and management of these activities and other activities such as production and construction, installation, operation and maintenance of engineered facilities, systems, equipment and associated services; and
- (d) includes all engineered facilities, systems, equipment and associated services within Papua New Guinea that are planned, designed, studied, organized, managed, developed, supervised, produced, constructed, installed, operated or maintained, by persons, within and outside Papua New Guinea;

"provisionally registered engineer" means a person provisionally registered under this Act; and

"registered engineer" means a person registered under this Act;

"Registrar" means the Registrar appointed under this Act;

“resident” means any person who is liable to pay taxation under the *Income Tax Act 1959*”; and

## PART II.—PROFESSIONAL ENGINEERS REGISTRATION BOARD.

### 2. Establishment and Constitution of the Board.

- (1) A Professional Engineers Registration Board is hereby established.
- (2) The Board shall comprise of the Council of the *Institution*.
- (3) The Board may co-opt additional members as required for any specified period, but not exceeding the life of the Board, in order to carry out the functions of the Board.

### 3. Chairman and Deputy Chairman.

- (1) The President of the *Institution* shall be the Chairman of the Board in an *ex officio* capacity.
- (2) The Vice-President of the *Institution* shall be the Deputy Chairman of the Board in an *ex officio* capacity.

### 4. Tenure of office.

- (1) A member of the Board shall be appointed for a period not exceeding one year, in accordance with the election of the Council of the *Institution*, and is eligible for reappointment.
- (2) When the position of a member becomes vacant before the expiration of his term of office, the person appointed to fill the vacancy shall be appointed in accordance with Subsection (1).
- (3) A member appointed under Subsection (2) holds office until the expiration of the term of the member whose position has become vacant.

### 5. Declaration of office.

### 6. Meetings of the Board.

- (1) The Chairman or Deputy Chairman shall normally preside at all meetings of the Board, and in the event that both the Chairman and Deputy Chairman Are absent, the Board may elect a member to act as the Chairman.
- (2) The Board shall meet at such times and places as in the opinion of the Chairman are necessary for the efficient conduct of its affairs.
- (3) If requested to do so by not less than three members, the Chairman shall call a meeting of the Board as soon as practicable after receiving the request.

- (4) At a meeting of the Board—
  - (a) four members shall form a quorum; and
  - (b) all matters before the Board shall be decided in accordance with a majority of votes; and
  - (c) the person presiding has a deliberative vote, and in the event of an equality of votes on a matter, also a casting vote.

- (5) The Board shall cause minutes of its meeting to be kept.

- (6) Subject to this Act, the procedures of the Board are as determined by the Board.

### 7. Indemnity of members of the Board.

A member of the Board or the Registrar is not personally liable for any act of the Board, of a member or of the Registrar acting as such, done in good faith.

## 7A. Disclosure of Interest

(1) A member who has a direct or indirect interest in a matter being considered by the Board (otherwise than as a member of, and in common with the other members of, an incorporated company which has more than 25 persons and of which he is not a director) shall, as soon as the relevant facts have come to his knowledge, disclose his interest at a meeting of the Board.

(2) A disclosure under Subsection (1), shall be recorded in the minutes of the Board and the member, shall –

- (a) not take part, after the disclosure, in any deliberation or decision of the Board in relation to the matter; and
- (b) be disregarded for the purpose of constituting a quorum of the Board in that deliberation or decision.

## PART III.—POWERS AND FUNCTIONS OF THE BOARD.

### 8. Functions of the Board.

Subject to this Act, the functions of the Board are—

- (a) the registration of a person qualified to be a registered engineer; and
- (b) the provisional registration of a person qualified to be a provisionally registered engineer; and
- (c) the deregistration of a person registered as a registered engineer or as a provisionally registered engineer; and
- (d) on advice from the Institution, to determine the qualifications and standards of qualifications for registration and provisional registration in the various fields of professional engineering; and
- (e) to conduct investigations into the activities and conduct of registered engineers or provisionally registered engineers.
- (f) to conduct investigations into the activities of any person, Company, Statutory Body, Government Body or Organisation that undertakes, or employs others to undertake professional engineering works (including design work, investigations and other investigation carried out offshore).

### 9. Powers of the Board.

Subject to this Act, the Board has, in addition to the powers conferred on it by this Act, power to do all things that are necessary or convenient to be done for or in conjunction with the performance of its functions.

### 10. Fees.

(1) The Board shall set fees annually payable in respect of examination and of registration under this Act for the issuing of certificates of registration, re-registration, and for inspection of the Register.

(2) The Board shall cause a schedule to appear in the National Gazette during the month of December listing the fees payable under Subsection (1) together with closing dates.

## PART IV.—REGISTRATION, QUALIFICATIONS AND RESPONSIBILITY.

### 11. Registrar of professional engineers.

- (1) The Board shall appoint a person to be the Registrar.
- (2) The Registrar shall be the Secretary of the Board.

### 12. Register of professional engineers.

(1) The Registrar shall keep a Register of registered engineers, in which shall be entered the name of each person registered under this Act, the qualifications by virtue of which he is so registered, any restrictions imposed, the place of practice, the postal

address and such other particulars in relation thereto, as may from time to time be prescribed.

(2) The Registrar shall cause a list of all persons registered in accordance with Subsection (1) together with their postal address and any restrictions imposed, and a list of persons deregistered, to appear in the National Gazette as follows:—

- (a) a list, which shall cancel all previous lists, of person currently registered shall appear annually during the month of **January**; and
- (b) an addendum to the annual list, of persons subsequently registered, or deregistered, shall appear **as required, but normally each month**.

(3) The Registrar shall keep a Register of provisionally registered engineers together with such other particulars as may be required.

(4) The names of persons provisionally registered under Subsection (3) shall not appear in the National Gazette.

### 13. Minimum qualifications and identifying titles for registration.

(1) A person shall be qualified, subject to Section 8(d), to be fully registered as a registered engineer if he has **the equivalent of four** or more years of experience in his respective field of engineering considered satisfactory by the Board, since becoming **academically qualified and holds a responsible position in connection with professional engineering work at the time of application and annual renewal**.

(2) A person shall not be registered as a registered engineer unless **he satisfies the qualification and experience requirements that would allow his election as a member of the Institution**.

(3) A person who is registered under Subsections (1) and (2) may use the prescribed identifying title in **full as registered engineer** or in the prescribed abbreviated form **Reg.Eng.**

(4) A person who is academically qualified but does not meet the requirements under Subsections (1) and (2) **and is participating in the Institution's Graduate Professional Development Programme, unless exempted by the Board, shall be provisionally registered until he does meet such requirements**.

(5) **The Board may withhold registration from an otherwise Qualified person on the grounds that the person is not a resident of Papua New Guinea.**

### 14. Applications for registration.

(1) A person may, in the prescribed form and in the prescribed manner, apply to the Board for registration.

(2) A person applying for registration under Subsection (1) shall furnish to the Registrar—

- (a) personal details; and
- (b) evidence of qualifications and work experience; and
- (c) evidence of such other matters as the Board may require.

(3) Application for registration shall be accompanied by the prescribed application **fee and must be lodged at least two months prior to the commencement of the relevant engineering work**.

(4) The Board may require an applicant for registration to attend personally before the Board, and if he fails to attend as required, the Board may refuse the application.

(5) All applications for registration shall be held by the Registrar for a period of 3 years after expiry of registration at which time they may be destroyed.

### 15. Certificate of registration.

(1) A person registered under this Act shall, on the payment of the prescribed fee, receive a numbered certificate of registration under the hand of the Registrar and Chairman.

(2) A certificate issued under Subsection (1) shall be issued annually, or quarterly.

(3) A certificate shall not be issued for a person provisionally registered.

#### 16. Refusal by the Board to register a person.

Where the Board refuses to authorise the registration of a person, or deregisters a person, the Board shall, if the person so requests, state in writing the reason for its refusal.

#### 17. Exemption from registration.

(1) The Board may approve that a person, group of persons, or persons employed by certain organizations, or that certain classes or types of work, be exempted from the provision of this Act.

(2) The Board shall consider each case on its merits and make a decision accordingly.

(3) The decision of the Board is final.

(4) The Registrar shall cause details of an exemption to appear in the National Gazette at the same time as the lists appear as provided under Section 12.

(5) An exemption shall be applied **for at least two months prior to the commencement of the engineering work and may** be approved on an annual or quarterly basis.

(6) A certificate of exemption shall be issued, as provided for under Section 15(1) and (2), **and the prescribed application** fee shall be payable.

#### 18. Fraudulent registration.

A person who, in connection with an application under this Act, makes a false or misleading statement or produces a false certificate, testimonial or other document, is guilty of an offence.

Penalty: A fine not exceeding **K1, 000.00**.

#### 19. Change of address, etc., to be notified.

(1) A person registered under this Act who changes his name or the location of his place of business or his postal address must, within 21 days after the changes, notify the Registrar in writing.

(2) A person who contravenes or fails to comply with Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding **K40.00**.

#### 20. Deregistration or suspension of registration.

(1) The Board may cause to be removed from the Register the name of a person—

- (a) whose registration has been obtained by fraud or misrepresentation; or
- (b) who is convicted, whether in this country or elsewhere, of a crime, or of any offence that, in the opinion of the Board, renders that person unfit to practise professional engineering; or
- (c) who is convicted of an offence under this Act; or
- (d) who becomes of unsound mind as that expression is used in the Public Health Act (Chapter 226); or

- (e) who ceases to hold the qualifications by reference to which that person was registered; or
- (f) who fails to pay the prescribed fee; or
- (g) who fails to comply with the Code of Ethics as established by the **Institution**; or
- (h) who is found by the Board to have been guilty of—
  - (i) disgraceful or improper conduct in his professional capacity; or
  - (ii) allowing a person other than a registered person to practice in his name as a registered **engineer or as a provincially registered engineer**; or
  - (iii) directly or indirectly giving or offering to a person any valuable consideration for securing or attempting to secure for himself employment or work as a registered **engineer or as a provincially registered engineer**; or
  - (iv) refusing or failing to comply with any rules made by the Board under this Act.
- (v) **failing to comply with Section 19(1).**

## 21. Complaints to the Board.

- (1) Where a complaint is made to the Board against a registered **engineer or a provincially registered engineer for improper professional conduct, any person, Company, Statutory Body, Government Body or Organisation for a breach or breaches of the Act** or in any case where the Board thinks advisable, the Board may hold an inquiry.
- (2) At an inquiry under Subsection (1) the **registered engineer or a provincially registered engineer or an individual, Company, Statutory Body, Government Body or Organisation** concerned may be represented by a lawyer or agent, who may examine witnesses and address the Board on behalf of **registered engineer or a provincially registered engineer or an individual, Company, Statutory Body, Government Body or Organisation**.
- (3) In conducting the inquiry, the Board –
  - (a) **has the powers of a Commission of a Commission of Inquiry under the *Commission of Inquiry Act* (Chapter 31), but may otherwise determine its own powers when enquiring into complaints of improper conduct or breaches of the Act and must observe the rules of natural justice in carrying out an inquiry; and**
  - (b) **is not bound by technical rules of evidence or of legal procedures, but may inform itself in a manner as it thinks fit.**
- (4) Pending the holding of the inquiry, the Board may suspend the registration of the engineer, but in no case shall the period of suspension exceed the **twelve months**.

## 22. Board to record its findings on which the decision was made.

- (1) Following **an inquiry**, the Board shall—
  - (a) record the findings on which the decision was based and its reasons; and
  - (b) if the engineer so requests, furnish a copy of the findings and reasons.
- (2) The decision of the Board is final.

## 22A. Power of the Board to impose penalties.

- (1) Where the Board has made findings that an engineer has been guilty of improper conduct as an engineer, notwithstanding **Section 20 and Section 21 (4) if this Act**, the Board may impose any one or more of the following penalties :
  - (a) **admonish or reprimand the engineer; or**
  - (b) **order the suspension of his registration; or**
  - (c) **order the cancellation of his registration and order the removal of his name from the Register; or**
  - (d) **order that his application for registration be refused; or**
  - (e) **impose a monetary penalty no exceeding K 10,000.00; or**
  - (f) **order the engineer to pay compensation, in cash and kind, to the other person concerned; or**
  - (g) **order the engineer to complete such course of education as the Board determines; or**
  - (h) **order that the engineer makes his practice and books of accounts relating to this practice available to such persons and at such times as the Board determines; or**
  - (i) **order the engineer to report on the conduct of his practice at such times and in such form as the Board determines; or**

- (j) order the engineer to take advise of the management and conduct of his practice from such persons and for such period as the Board determines; or
- (k) order the engineer not to accept work or to hold himself out as accepting work in the area of the practice of engineering specified by the Board; or
- (l) order that the engineer employ in his practice a member of a class of persons specified by the Board; or
- (m) order that the engineer not employ such persons as specified by the Board; or
- (n) order that the engineer perform work for such persons within such time and for such fees, if any, as the Board determines; or
- (o) order that, subject to conditions determined by the Board, the engineer waivers and lien he possesses as an engineer; or
- (p) order that the engineer reduce his fees in respect of any work carried by him where this fees are the subject of any inquiry by the Board; or
- (q) order that the engineer pay the cost of the hearing.

(2) Where the Board has made findings that a person, Company, Statutory Body, Government Body or Organisation is guilty of a breach or breaches of this Act, it may impose any one or more of the following penalties :-

- (a) admonish or reprimand the individual or the party; or
- (b) order the registration or engineers; or
- (c) impose monetary penalties as specified in this Act; or
- (d) order the party or parties to pay the cost of the hearing.

#### PART V.—REGULATION OF THE PRACTICE OF ENGINEERING.

#### 23. **Employment of Registered Engineers**

(1) Any person, Company, Statutory Body, Government Body or Organisation that **undertakes or employs others to undertake professional engineering studies and** works (includes design work, investigations and other works carried out offshore, where the total project value is in excess of K200,000.00) shall employ registered engineers for the engineering management, design and implementation of these works.

**(1A) All drawings and documentations for the construction of works approved under Subsection (1) shall be approved and signed by a registered engineer.**

(2) A person who fails to employ registered engineers in accordance with Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding **K200,000.00** or up to the full value of the commission, fee, profit margin, etc., whichever is the greater.

(3) A provisionally registered **engineer may be employed under** Subsection (1) provided he is under the full time direction of a registered engineer who accepts responsibility for the engineering work of the provisionally registered engineer.

#### 24. **Unregistered persons using reserved titles.**

A person other than a registered engineer who uses any of the prescribed identifying titles or abbreviations for registered engineer or implies by any other name, style, title, addition or description, whether in itself or the circumstances in which it is used, that such person is a registered engineer, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

#### 25. **Unregistered persons signing documents.**

A person who is unregistered, but who claims to be registered, or who signs engineering documents as though he is registered, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

**26. Penalty for employing an unregistered person.**

A person, Company, Statutory Body, Government Body or Organisation who employs an unregistered person as a registered engineer knowing him to be unregistered, is guilty of an offence.

Penalty: A fine not exceeding **K10,000.00**.

**27. Board may direct prosecutions.**

The Board **may order the Institution**, either generally or in any particular case, proceedings to be taken for the recovery of penalties and for the prosecution of any persons, Company, Statutory Body, Government Body or Organisation offending against this Act.

**28. Power to summon witnesses.**

(1) The Board may summon witnesses to appear before it to give evidence and produce documents.

(2) A summons to a witness:—

- (a) shall be in the prescribed form; and
- (b) shall be in writing and signed by the Chairman or the Deputy Chairman; and
- (c) may be served on the witness either personally or by being left at or sent by post to his usual place of business or of abode.

**29. Power to examine on oath.**

A member of the Board may administer an oath to a person appearing as a witness before the Board, whether the witness has been summoned or appears without being summoned, and the witness may be examined on oath.

**30. Failure to attend or produce documents.**

(1) A person served with a summon to attend before the Board who refuses or fails, without reasonable excuse, to attend before the Board, or to produce the books, documents or writings in his custody or control that he is required by the summons to produce, is guilty of an offence.

Penalty: A fine not exceeding **K400.00**.

Default Penalty: A fine not exceeding **K40.00**.

(2) It is a defence to a prosecution under Subsection (1) that the books, documents or writings requested by the Board were not relevant to the matter, the subject, of the Board's proceedings.

**31. Refusal to be sworn or give evidence.**

A person appearing as a witness before the Board who refuses to be sworn or to make an affirmation, or to answer a question relevant to the proceedings put to him by a member of the Board, is guilty of an offence.

Penalty: A fine not exceeding **K 200.00**.

**32. Regulations.**

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing matters providing for and in relation to any other matters relevant to this Act.



**SCHEDULE.**

Sec. 5(1).

*Professional Engineers (Registration) Act 1986.*

**DECLARATION OF OFFICE.**

I, . . . (*here insert name and address of person making the declaration*) do promise and declare that I will well and truly serve the Independent State of Papua New Guinea and its People and abide by the rules of this Act and Regulation, in the office of the member of the Professional Engineers Registration Board.

Declared at . . . the . . . day of . . . 19...

. . . (Signature of person making the declaration).

Before me—

. . . (*Signature of person before whom the declaration is made*).

. . . (*Print here name of person before whom the declaration is made*).  
(person appointed under Section 5(2) of the Act)

**INDEPENDENT STATE OF PAPUA NEW GUINEA.**

**STATUTORY INSTRUMENT.**

**No. 4 of 1988.**

*Professional Engineers (Registration) Regulation 1988,*

Being a Regulation,

MADE by the Head of State, acting with, and in accordance with, the advice of the National Executive Council under the *Professional Engineers (Registration) Act 1986.*

**1. Identifying title.**

A person who is a registered engineer may use—

- (a) the title "Registered Engineer"; or
- (b) the abbreviated title "Reg. Eng."

**2. Certificate to be displayed.**

A certificate issued to a registered engineer under Section 15 of the Act shall be displayed—

- (a) where the registered engineer is self-employed—at his place of business; and
- (b) where the registered engineer is an employee—at the place of business of his employer.

**3. Period of suspension.**

The maximum period of suspension under Section 21(4) of the Act is twelve months.

**4. Value of works.**

For the purposes of Section 23(1), the estimated value of works is specified as K100,000.00.