

Chapter 27:01

ARCHITECTS ACT

Acts 29/1981 (s. 59), 31/1983 (s.19), 8/1988, 22/2001; R.G.N 1135/1975; S.I. 362/1980

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AN ACT to establish a council for the profession of architect, to be known as the Architects Council of Zimbabwe, and to provide for its functions and powers; to provide for the registration and regulation of the practice of architects in Zimbabwe; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 1st March, 1976]

PART 1

PRELIMINARY

1. Short Title.

This Act may be cited as the Architects Act [Chapter 27:01]

2. Interpretation

In this Act –

“appointed day” means the 1st March, 1976;

“appointed member” means a member referred to in paragraph (a) of subsection (1) if section four;

“certificate of registration” means a certificate issued in terms of paragraph (a) of subsection (3) of section twenty-one or a duplicate certificate issued in terms of subsection (4) of that section;

“certificate of temporary registration” means a certificate issued in terms of subsection (2) of section twenty-seven.

“Council” means the Architect Council of Zimbabwe established by section three;

“elected member” means a member referred to in paragraph (b) of subsection (1) of section four

“improper or disgraceful conduct” means improper conduct or disgraceful conduct or conduct which, when regard is had to the profession of architecture is improper or disgraceful, whether defined in by-laws referred to in paragraph (a) of subsection (1) of section thirty-seven or not;

“Institute” means the Institute of Architects of Zimbabwe as represented by its governing body;

“member” means a member of the Council;

“Minister” means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“Register” means the Register of Architects established in terms of subsection (1) of section twenty;

“registered” means registered in the Register in terms of this Act;

“Registrar” means the Registrar of Architects appointed in terms of section nineteen;

“work of an architect” means—

- (a) the designing of buildings or of addition thereto;
- (b) the supervision of the work constructing buildings or of additions thereto.

PART II

ARCHITECTS COUNCIL OF ZIMBABWE

3. Establishment of Architects Council of Zimbabwe

There is hereby established a council, to be known as the Architects Council of Zimbabwe, which shall be a body corporate and shall, in its corporate name, be capable of suing and being sued and, subject to the provisions of this Act, of performing all such acts as bodies may bylaw perform.

4. Composition of Council

- (1) The Council shall consist of eleven members, of whom—
 - (a) two shall be appointed by the Minister; and
 - (b) nine shall, subject to the provisions of this Part, be elected by the Institute.
- (2) If at any time the Minister is satisfied that the Institute—
 - (a) has ceased to exist, the Minister shall, by statutory instrument, declare that all of the members; or
 - (b) has ceased to be sufficiently representative of registered architects, the Minister may, by statutory instrument, direct that one or more members; referred to in paragraph (b) of subsection (1) shall be elected by registered architects in the manner prescribed by the Ministry and thereafter any reference in this Part to the Institute, in relation to the election of members or alternate members, shall be construed as a reference to or as including a reference to, as the case may be, registered architects.
- (3) The Minister may at any time, by statutory instrument, amend or withdraw a notice published in terms of subsection (2).

5. Functions, powers and expenses of Council

- (1) It shall be the function of the Council to hold inquiries for the purposes of this Act and to do all other things required or permitted to be done by the Council in terms of this Act and other such things as, in the opinion of the Council, are necessary or desirable of the proper regulation of the practice of the profession or architecture and the improvement of architectural services in Zimbabwe.
- (2) Subject to this Act and any other law, the Council shall have power to do all or any of the things specified in the First Schedule, either absolutely or conditionally and either solely or jointly with others.
- (3) Any expenses incurred by the Council in the exercise of its functions in terms of this Act shall be met out of the funds of the Council.

6. Tenure and conditions of office of members

- (1) Subject to this Part a member shall hold office—
 - (a) In the case of an appointed member, for such a period not exceeding three years, as may be fixed by the Minister on his appointment;
 - (b) In the case of an elected member, for a period of two years; Providing that—
 - (i) of the members first elected, four, who shall be determined by lot, shall hold office for a period of one year;
 - (ii) on the expiration of his period of office an elected member shall continue to hold office until a successor has been elected or a period of three months has elapsed, whichever is sooner.

(2) A member shall be paid out of the funds of the Council such remuneration and allowances, if any as the Council may fix.

(3) A retiring member shall be eligible for appointment, re-appointment, election or re-election as a member.

7. Appointment of members on failure to elect members

(1) Subject to this section, if the Institute for any reason whatsoever fails, neglects to refuses—

(a) Within twenty-one days from the appointed day, to elect any or all of the members referred to in paragraph (b) of section four;

or

(b) Within the period referred to in paragraph (a) of subsection (1) of section eleven, to fill a vacancy in terms of paragraph; the Minister may appoint to the Council a registered architect or registered architects to be the member or members which the Institute has failed, neglected or refused to elect or may appoint a registered architect to fill the vacancy, as the case may be.

(2) A member appointed by the Minister in terms of subsection (1)—

(a) notwithstanding the provisions of subsection (1) of section six, shall hold office for such a period, not exceeding two years, as the Minister may fix; and

(b) shall be deemed to have been duly elected to the Council in terms of this Part.

8. Disqualification for appointment or election as member

No person shall be appointed or elected as a member and no person shall be qualified to hold office as a member who—

(a) has, in terms of a law force in any country—

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or

(ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside;

(b) has, in the period of five years immediately preceding the date of his proposed appointment or election, been convicted—

(i) within Zimbabwe of a criminal offence;

(ii) or outside Zimbabwe of an offence by whatever name called which, if committed within Zimbabwe, would be a criminal offence; and sentenced by a court to imprisonment without the option of a fine, whether or not such sentence has been suspended, and has not received a free pardon; or

(c) within the period of five years immediately preceding his proposed appointment, he has been sentenced—

(i) in Zimbabwe, in respect of an offence; or

(ii) outside Zimbabwe, in respect of conduct which, if committed in Zimbabwe would have constituted an offence; to a term of imprisonment of not less than six months imposed without the option of a fine whether or not any portion has been suspended, and has not received free pardon; or [substituted by Act 22 of 2001, gazetted on the 1st February, 2002.]

(d) has, in the period of five years immediately preceding the date of his proposed appointment or election, been found guilty of improper or disgraceful conduct; or

(e) is a member of Parliament.

9. Vacation of office

A member shall vacate his office and his office shall become vacant—

(a) one month after the date he give notice in writing to the Minister of his intention to resign his office or after the expiration of such shorter period as he and the Minister may agree; or

(b) thirty days after the date he is sentenced by a court to imprisonment such as referred to in paragraph (b) of section eight or to imprisonment or a fine such as is referred to in paragraph (c) of section eight after conviction of an offence referred to in that paragraph:

Provided that if, during the said period of thirty days, an application for a free pardon is made or an appeal is filed, the question whether the member is to vacate his office shall not be determined until the final disposal or the withdrawal of such application or appeal, whereupon the member shall forthwith vacate his office and his office shall become vacant unless he is granted free pardon, his conviction is set aside or a punishment other than imprisonment or a fine not exceeding two hundred dollars, as the case may be, is substituted; or

(c) thirty days after the date he is found guilty of improper or disgraceful conduct: Provided that if, during that period of thirty days, an appeal is filed in terms of subsection (1) of section thirty-five, the question whether the member is to vacate his office shall not be determined until the final disposal or withdrawal of such appeal, whereupon the member shall forthwith vacate his office and his office shall become vacant unless the decision of the Council finding him guilty of improper or disgraceful conduct is set aside; or

(d) if he becomes disqualified in terms of paragraph (a) or (e) of section eight for appointment or election as a member; or

(e) if he is absent, without permission of the Council, from three consecutive meetings of the Council of which he has had no notice; or

(f) if he is required in terms of subsection (1) of section ten to vacate his office; or

(g) in the case of an elected member, if he ceases to be an registered architect.

10. Minister may require member to vacate office or suspend him

(1) The Minister, after consultation with the chairman or vice-chairman of the Council may require a member to vacate his office if the Minister is satisfied that the member—

(a) has been guilty of improper conduct as a member; or

(b) is mentally or physically incapable of performing his duties as a member.

(2) The Minister, after consultation with the chairman or vice-chairman of the Council, may suspend from office a member against whom—

(a) Criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may imposed; or

(b) disciplinary proceedings are instituted by the Council;

and while that member is so suspended he shall not carry out any duties as a member.

11. Filling of vacancies on Council

(1) On the death of or vacation of office my a member who is—

(a) An elected member, the Minister shall, on being notified thereof by the Council, by notice in writing, call upon the Institute to elect, within such period as may be specified in the notice being not less than sixty days, a member to fill the vacancy and the person so elected shall hold office for the remainder of the period for which that member would, but for his death or the vacation of his office, have continued in office:

Provided that if the remainder of the period for which the member whose office has been vacated would otherwise have held office is less than six months, it shall be necessary for the Minister to call upon the Institute to elect a member;

(b) an appointed member, the Minister shall appoint another person to fill the vacancy.

(2) If—

(a) any member is granted leave of absence by the Council, the Council may, if it thinks fit, co-opt a registered architect to fill the vacancy during the absence of that member; or

(b) in terms of the proviso to paragraph (a) of subsection (1), the Institute is not called upon to fill a vacancy, the Council may, if it thinks fit, co-opt a registered architect to fill the vacancy for the remainder of the period for which the member concerned would, but for his death or vacation of his office, have continued in office.

(3) The provision of subsection (2) of section six and of sections eight, nine and ten shall apply, mutatis mutandis, in respect of a member co-opted in terms of subsection (2).

12. Alternate members

(1) For every—

(a) appointed member the Minister shall appoint an alternate member; or

(b) elected member the Institute shall elect an alternate member;

and any such alternate member may attend and take part in the proceedings of the Council and vote at any meeting of the Council whenever the member to whom he is alternate is absent from such meeting.

(2) Subsection (2) of section six and of sections eight, nine and ten shall apply, mutatis mutandis, in respect of an alternate member appointed or elected in terms of subsection (1).

13. Chairman and vice-chairman of Council

(1) At the first meeting of the Council the members shall elect from among their number a chairman and a vice-chairman who shall hold office for such a period, being not less than twelve months, as the Council may from time to time determine unless, in either case, he sooner resigns or ceases to be a member.

(2) On the expiration of the period of office of the chairman or vice-chairman or if the chairman or the vice-chairman vacates his office as such, a new chairman or vice-chairman, as the case may be, shall be elected by the members from among their number at the next meeting of the Council or as soon thereafter as may be convenient.

(3) The chairman or vice-chairman may vacate his office as such even though he remains a member.

(4) The vice-chairman if able to do so, shall, whenever the chairman is absent or unable to carry out his functions, exercise the functions of the chairman during the period that the chairman is so absent or unable to act.

14. Meetings and decisions of Council

(1) The Council shall hold its first meeting on such date and at such place as the Minister may fix and thereafter the Council shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedures as it thinks fit.

(2) A special meeting of the Council—

(a) may be convened by the chairman of the Council at any time;

(b) shall be convened by the chairman within twenty-one days of the receipt by him of request in writing signed by not less than six members and specifying the purposes for which the meeting is to be convened.

(3) At any meeting of the Council—

(a) the chairman or, in his absence, the vice-chairman shall preside;

- (b) in the absence of both the chairman and the vice-chairman the members present shall elect one of their members to preside;
- (c) six members shall form a quorum.
- (4) All acts matters or things authorized or required to be done by the Council shall be decided by a majority vote at a meeting of the Council at which a quorum is present.
- (5) At all meetings of the Council each member present shall have one vote on a question before the Council and, in the event of an equality of votes, the person presiding at the meeting shall, in addition to a deliberative vote, a casting vote.

15. Committees of Council

- (1) For the proper exercise of its functions and powers of the Council may—
 - (a) establish committees; and
 - (b) appoint such registered architects, whether or not they are members of the Council, and other persons as it may consider expedient to be members of a committee established in terms of paragraph (a):
Provided that at least one elected member shall be appointed to the committee and the chairman of the committee shall be a member of the Council; and
 - (c) assign to a committee established in terms of paragraph (a) such powers and duties of the Council as the Council may consider expedient:
Provided that—
 - (i) the vesting in a committee or imposition on a committee of any powers or duties in terms of this paragraph shall not hereby divest the Council of such powers or duties;
 - (ii) the Council may amend or rescind any decisions of any committee in the exercise of its power to determine whether or not any person shall be registered in terms of this Act or to cancel the registration of a registered architect or to inquire into any case of alleged improper or disgraceful conduct and to impose a punishment in respect thereof in terms of this Act, the Council shall not amend or rescind any decision arrived at or anything done by that committee under the power so assigned.
- (2) The chairman of the Council or chairman of a committee may at any time and at any place convene a meeting of that committee.
- (3) At any meeting of a committee three members of the committee or such other member as may be fixed by the Council in any particular case shall form quorum.
- (4) A member of a committee three members of the committee or such other number remuneration and allowances, if any, as the Council may fix.
- (5) Any reference in this Act to the Council or to the chairman of the Council, in relation to the exercise of any power which the Council has assigned to a committee shall be construed as including a reference to that committee or to the chairman of that committee, as the case may be.
- (6) The provisions of section sixteen shall apply, mutatis mutandis, in respect of a committee.

16. Validity of decision and acts of Council

No decision or act of the Council or act done under the authority of the Council shall be invalid by reason only of the fact that—

- (a) the Council did not consist of the full number of members for which provision is made in section four;
- (b) the various members of the Council did not have the qualifications prescribed by this Part; or
- (c) a disqualified person acted as a member of the Council.

17. Funds and accounts of Council

(1) The funds of the Council shall consist of—

(a) all fees and other moneys payable to the Council in terms of this Act; and
(b) such other moneys and assets as may vest in or accrue to the Council, whether in the course of the exercise of its functions or otherwise.

(2) The Council shall keep proper books of account and other records relating thereto in respect of its funds.

(3) The accounts of the Council shall be audited annually by an auditor registered in terms of the Public Accountants and Auditors Act [Chapter 27:12] appointed by the Council.

(4) The Council shall cause to be prepared in each year a statement of its income and expenditure during its last preceding financial year and a balance sheet showing its financial position at the end of that financial year and shall, after such statement and balance sheet have been audited by an auditor registered in terms of the Public Accountants and Auditors Act [Chapter 27:12] appointed by the Council, cause copies thereof to be transmitted to every member and cause a copy thereof to be open to inspection during office hours at the office of the Council by any registered architect.

18. Reports to Minister

(1) The Council shall in each year, within six months after the end of its financial year, submit to the Minister a report in regard to its activities during that financial year, together with a copy of the audited statement of income and expenditure and the balance sheet referred to in subsection (4) of section seventeen in respect of that financial year and a list of registered architects whose names appeared on the Register on the last day of that financial year.

(2) The chairman of the Council shall from time to time submit to the Minister reports in regard to matters relating to the activities of the Council which, in the opinion of the Council, should be brought to the notice of the Minister.

(3) The Council shall, when so requested by the Minister, furnish to the Minister advice on matters regarded by it as being of public import.

PART III

REGISTRAR, REGISTER AND REGISTRATION

19. Registrar of Architects and other employees

(1) The Council—

(a) shall appoint a Registrar of Architects; and
(b) may appoint one or more assistant registrars and such other employees as it considers necessary or desirable.

(2) The functions of the Registrar shall be—

(a) to be secretary to the Council and to every committee thereof in which connection he shall, on the instructions of the chairman of the Council or of the committee, as the case may be, convene meetings of the Council or committee, as the case may be, and maintain records and minutes of all such meetings; and

(b) to carry out any other duties assigned to him by the Council.

(3) If the Registrar is absent or unable to carry out any of his functions under this Act or any other laws, an assistant registrar shall exercise, during the period that the Registrar is so absent or unable to act, such of the functions of the Registrar as the chairman of the Council may assign to him.

20. Registers

(1) The Council shall establish and maintain, subject to the provisions of this Act, a Register of Architects.

(2) The Council shall establish and maintain, subject to the provision of this Act, a register of architects who are temporarily registered in terms of section twenty-seven.

(3) The Register and the register kept in terms of subsection (2) shall be kept at the offices of the Council and shall be open to inspection during office hours by any member of the public upon payment of the appropriate fee prescribed by the Council.

21. Duties of Registrar and certificates of registration

(1) It shall be the duty of the Registrar—

(a) to enter in the Register in relation to a registered architect, his names, address qualifications and date of first registration and such other particulars as the Council may from time to time determine; and

(b) to make in the Register any necessary alterations to the particulars referred to in paragraph (a); and

(c) to erase from the Register the name of a registered architect who dies; and

(d) when required to do so by or under this Act, or in pursuance of an order of the High Court—

(i) to enter in the Register the registration of an applicant or, as the case may be, suspension from practice of a registered architect ; and

(ii) to erase from the Register the name of a registered architect; and generally in connection with the Register to comply with the provisions of this Act and any order of the High Court.

(2) Where the Registrar erases from the Register the name of a registered architect, he shall enter in the Register a record of the reasons therefor.

(3) If, in the performance of the duties imposed upon him by or under this Act, the Registrar—

(a) registers and applicant or restores a person's name to the Register, he shall issue to him a certificate of registration

(b) erases from the Register the name of a registered architect or enters in the Register the suspension from practice of a registered architect, he shall, if possible, notify him, in writing accordingly.

(4) On an application by a registered architect the Registrar may issue to that person a duplicate certificate of registration—

(a) if he is satisfied as to the identity of the applicant; and

(b) on production by the applicant of an affidavit certifying that the certificate of registration has been lost or destroyed; and

(c) on payment by the applicant of the appropriate fee, if any, prescribed by the Council.

22. Offences in connection with Register, etc.

A person who—

(a) makes or causes to be made an unauthorized entry in or alteration of or deletion from the Register or a certified copy thereof or extract therefrom or certificate of registration; or

(b) procures or attempts to procure for himself or another person registration or a certificate of registration by means of fraud, a false representation or the concealment of a material fact; or

(c) makes or causes to be made in connection with an application for registration a false declaration in a document used for the purpose of establishing his identity; or

(d) wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible an entry in the Register; or

(e) without permission of the holder, wilfully destroys, injures or renders illegible or causes to be destroyed, injured or rendered illegible a certificate of registration; or

(f) forges or utters, knowing the same to be forged, a document purporting to be a certificate of registration;

shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[amended by Act 22 of 2001, gazetted on the 1st of February, 2002.]

23. Register and certificates from Registrar to be evidence

(1) The Register shall be prima facie evidence of all matters directed or authorized by this Act to be noted therein.

(2) A certificate purporting to be signed by the Registrar to the effect that—

(a) the name of a person appears in the Register shall be prima facie evidence that the person is a registered architect;

(b) the name of a person has been deleted or removed from the Register or does not appear in the Register shall be prima facie evidence that the person is not a registered architect;

(c) a registered architect has been suspended from practice as such for a period specified in that certificate shall be prima facie evidence that the person is not a registered architect.

(3) A copy of an entry in the Register or of a document in the custody of the Registrar or an extract from the Register or from any such document purporting to be certified by the Registrar shall be admitted in evidence in all courts without further proof or production of the original.

24. Return of certificate of registration

(1) Any person whose name has been removed from the register in terms of section twenty-eight shall return to the Registrar his certificate within thirty days from the date upon which he is directed by the Registrar, by notice in writing, to do so.

[inserted by Act 22 of 2001, gazetted on the 1st February, 20012.]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[inserted by Act 22 of 2001 gazetted on the 1st February, 2002.]

25. Qualification for registration.

For the purposes of this Part, a person shall be qualified to be registered if he is a member of a class specified in the Second Schedule.

26. Procedure for registration

(1) Any person who wishes to be registered shall apply in writing to the Registrar and shall submit with his application

(a) a certificate of any qualification on which he relies for registration or a certified Photostat copy thereof; and

(b) the appropriate prescribed by the Council; and

(c) such evidence of identity and of good character and reputation and such other evidence or information as may be required by the Council.

(2) The Registrar—

(a) may require any statement made in, or in connection with, an application in terms of subsection (1) to be supported by solemn declaration;

(b) shall refer and application in terms of subsection (1) and any report he may wish to make thereon to the Council.

(3) An application in terms of subsection (1) by a person who relies on the qualification specified in paragraph 2 or 3 of the Second Schedule shall be lodged with the Registrar within six months after the appointed day or within such further period as the Council may good cause in any particular case allow.

(4) Subject to subsections (5) and (6), the Council shall direct the Registrar to register and applicant if it is satisfied that the applicant if it is satisfied that the applicant is qualified in terms of section twenty-five and is a fit person to be registered.

(5) The Council shall refuse to direct the Registrar to register an applicant if it is satisfied that the applicant has at any time, whether within or outside Zimbabwe—

(a) been removed from an office of trust on account of improper conduct; or

(b) been convicted of extortion, bribery, theft, fraud, forgery or uttering a forged document or perjury and sentenced in respect thereof to imprisonment without the option of a fine or to a fine exceeding level five.

[amended by Act 22 of 2001, gazetted on the 1st February 2002.]

(6) the Council may refuse to direct the Registrar to register an applicant if, in its opinion, the applicant, notwithstanding that he is otherwise qualified, is not a fit person to be registered by reason of—

(a) his physical or mental health; or

(b) the fact that he is not of good character or reputation; or

(c) the fact that he has not an adequate knowledge of the English language; or

(d) any conduct of his which, if he had been registered, would have constituted improper or disgraceful conduct:

Provided that, before refusing registration in terms of this paragraph, the Council shall hold an inquiry in terms of Part IV and that Part shall apply, *mutatis mutandis*, as if the applicant were registered.

27. Temporary registration

(1) Subject to this section, any person Temporary registration, who has, in the opinion of the Council, been bona fide engaged to perform the work of an architect in a consultative capacity and who—

(a) is not ordinarily resident in Zimbabwe; and

(b) is of or over the age of twenty-one years; and

(c) has passed an examination prescribed by the Council for the purpose of this paragraph or any examination recognized by the Council as being equivalent thereto; and

(d) has had not less than three years practical experience in architectural work which, in the opinion of the Council, is of sufficient variety and of a satisfactory nature or standard for the purpose of temporary registration;

may apply for registration in the temporary register kept in terms of subsection (2) of section twenty.

(2) If the Council is satisfied that a person who has made an application in terms of subsection (1) is a fit person to be registered in the temporary register, it shall direct the Registrar to register the applicant in that register and the Registrar shall issue to that person a certificate of temporary registration.

(3) The registration of a person in the temporary register and the certificate of temporary registration shall be valid for such period, not exceeding twelve months, as the Council may in each case determine.

(4) A person who is or has been registered on the temporary register may, on application in terms of this section, be registered on a second or subsequent occasion in the temporary register.

(5) Save as otherwise specifically provided in this Act, this Act shall apply, mutatis mutandis, in relation to the temporary register, temporary registration and certificates of temporary registration as they may apply to the Register, registration in the Register and certificates of registration.

28. Erasures from Register

(1) The Council may direct the Registrar to erase from the Register—

(a) the name of any person who—

(i) ceases to be ordinarily resident in Zimbabwe; or

(ii) has failed to pay any fee payable in terms of any regulations referred to in subparagraph (ii) of paragraph (a) of subsection (5) of section forty-two within six months after the date on which that fee became payable; or

(iii) has failed, within a period of six months after the date of an inquiry sent by the Registrar by registered letters to his address as shown in the Register, to notify the Registrar of his present address:

Provided that if such registered letter is returned to the Registrar by reason of it being unclaimed or for any other reason, the Council may forthwith direct that the name of the person be erased from the Register; or

(iv) has requested that his name be removed from the Register and, if so required by the Council, has lodged an affidavit that no disciplinary or criminal proceedings are being or are likely to be taken against him in connection with the practice of his profession or calling;

(b) any entry which is proved to the satisfaction of the Council to have been made in error or through fraudulent representation or concealment of material facts or in circumstances not authorised by the Act.

(2) The Registrar shall erase from the Register the name of any person where the Council has—

(a) in terms of subsection (1), directed the erasure of the name; or

(b) in terms of subparagraph (i) of paragraph (a) of subsection (1) of section thirty-two, directed cancellation of the registration of the person concerned.

(3) A certificate of registration issued to a person whose name has been erased from the Register in terms of this section shall be deemed to have been cancelled on the date of the erasure and the person concerned shall be deemed not to be registered with effect from that date.

29. Restoration to Register

Where the name of a person has been erased from the Register in terms of section twenty-eight, the Council may, if it sees fit, authorize the restoration to the Register of the name of such person if representations are made by the person concerned after the expiration of such period as the Council may determine in that particular case.

30. Appeals against refusal to register or erasure from Register

(1) A person, other than a person referred to in subsection (1) of section thirty-five, who is aggrieved by—

(a) the refusal of the Council to register him or to register him temporarily in terms of section twenty-seven; or

(b) the erasure of his name from the Register;

may, after notice to the Council and within thirty days after the date on which notice is given to him by the Registrar of such refusal or erasure, appeal to the High Court in such manner as may be prescribed by rules of court made in terms of the High Court Act [Chapter 7:06].

(2) On an appeal in terms of subsection (1) the High Court may—

(a) dismiss the appeal; or

(b) if it is of the opinion that the Council has not acted in accordance with the provisions of this Act, make an order that the name of the appellant be registered on the appropriate register or restored to the Register, as the case may be; or

(c) remit the matter to the Council for further consideration;

and may make such other order as to costs or otherwise as may to it seem just.

(3) Where the Council has refused to register or to register temporarily an applicant on the grounds that, in its opinion, he is not a fit person to be so registered for any of the reasons specified in subsection (6) of section twenty-six, the High Court may, if it thinks fit, notwithstanding the opinion of the Council, order that the appellant be registered.

PART IV

DISCIPLINARY AND OTHER INQUIRIES

31. Inquiries by Council

(1) Subject to this section, the Council may hold inquiries into an allegation—

(a) that a registered architect—

(i) has been guilty of improper or disgraceful conduct; or

(ii) is grossly incompetent or has performed any act pertaining to his profession in a grossly incompetent manner;

(b) referred to in section thirty-four.

(2) Before exercising its powers referred to in subsection (1), the Council shall cause to be sent to the person concerned a registered letter to his address as shown in the Register containing a notice setting out the allegations against him and the Council shall afford the person concerned a reasonable opportunity of being heard, either by himself or if he so wishes, by a legal representative:

Provided that where the person concerned is by reason of mental disorder or defect legally incapable of representing himself, the Council may apply to the High Court for the appointment of a curator ad litem and the aforementioned notice shall be sent to such curator.

(3) The powers, rights and privileges of the Council in an inquiry referred to in subsection (1) shall be the same as those conferred upon a commissioner by the Commissions of Inquiry Act [Chapter 10:07], other than the power to order a person to be detained in custody, and sections 9 to 13 and sections 15 and 16 of that Act shall apply, mutatis mutandis, in relation to an inquiry and to a person summoned to give evidence or giving evidence at an inquiry.

(4) For the purposes of an inquiry in terms of subsection (1), the Council may appoint any person to advise the Council at such inquiry on matters pertaining to law, procedure or evidence.

32. Exercise of powers by Council after inquiry

(1) At the conclusion of an inquiry held in terms of section thirty-one, the Council may—

(a) in the case of an allegation referred to in paragraph (a) of subsection (1) of that section, if the Council decides that the registered architect has been guilty of improper or disgraceful conduct or is grossly incompetent or has performed any act pertaining to his profession in a grossly incompetent manner, do one or more of the following—

(i) direct the Registrar to cancel the registration of the registered person;

(ii) order the suspension of the registered person for a specified period from performing the work of an architect;

(iii) impose such conditions as it deems fit subject to which the registered person shall be entitled to carry on performing the work of an architect;

(iv) order the registered person to pay a penalty not exceeding an amount equivalent of level six, which penalty shall be payable to the Council; [amended by Act 22 of 2001, gazetted on the 1st February, 2002.]

(v) order the registered person to pay any costs or expenses of, and incidental to, the inquiry

(vi) censure the registered person;

(vii) caution the registered person and postpone for a period not exceeding three years any further action against him on one or more conditions as to his future conduct, including the conduct or nature of his practice during that period;

(b) in the case of an allegation referred to in paragraph (b) of subsection (1) of that section, do one or more the things referred to in paragraph (a) and subsection (2) and (3) shall apply mutatis mutandis.

(2) If at any the Council is satisfied that during that period of any postponement in terms of subparagraph (vii) or paragraph (a) of subsection (1) a registered person has not complied with the conditions imposed in terms of that subparagraph, the Council, after giving reasonable notice to the registered person concerned, may decide further to do one or more of the things specified in paragraph (a) of subsection (1).

(3) A person who has been suspended in terms of subparagraph (ii) of paragraph (a) of subsection (1) shall be disqualified from performing the work of an architect and his registration shall be deemed to be cancelled until the period of suspension has expired.

33. Exercise of disciplinary powers on conviction for offence: court to forward evidence

(1) A registered person who has been convicted within or outside Zimbabwe, whether before, on or after the date of his registration, of an offence by a court of law shall be liable to be dealt with by the Council in accordance with the provisions of this Part if the Council is of the opinion that such offence constitutes improper or disgraceful conduct.

(2) The Council may, if it thinks fit on proof before it of a conviction referred to in subsection (1) and without hearing further evidence, deal with the convicted person in accordance with the provisions of this Part:

Provided that the convicted person shall be afforded an opportunity of tendering in writing or in person or by his legal representative, as he may elect, an explanation to the Council in extenuation of his conduct.

(3) Subject to the Courts and Adjudicating Authorities (Publicity Restriction) Act [Chapter 7:04], if, after the termination of proceedings before a court of law in Zimbabwe—

(a) it appears to the court that there is prima facie evidence of improper or disgraceful conduct on the part of a registered person, the court shall direct that copy of the record of the proceedings or a copy of such part of the proceedings as is material to the issue shall be transmitted to the Council; or

(b) the Council requests that a record of proceeding before a court of law in Zimbabwe or part of such record be supplied to it on the grounds that it is of direct interest to the Council in the exercise of its functions under this Act, the registrar or clerk of the court shall transmit to the Council a copy of the record of the proceedings or a copy of such part of the record of the proceedings as is material.

34. Registered persons becoming unfit to practise

Whenever there is brought to the notice of the Council an allegation that a registered person has become mentally or physically disabled to such an extent that it would be contrary to the public welfare to allow him to continue to practise, the Council shall have power to call for information, to cause such an investigation to be made as it thinks necessary and to seek such legal advice or other assistance as it may require and thereafter the provisions of sections thirty-one and thirty-two shall apply.

35. Appeals to High Court

(1) Any person who is aggrieved at the findings of or penalty imposed by, the Council under this Part may, within thirty days after the date of such findings or the imposition of such penalty, appeal to the High Court in such manner as may be prescribed of court made in terms of the High Court Act [Chapter 7:06]

(2) On appeal in terms of subsection (1) the High Court may –

(a) confirm, vary or set aside any findings or penalty of the Council; or

(b) remit the matter to the Council for further consideration;

and may make such other order as to costs or otherwise as may to it seem just:

Provided that the High Court shall not set aside any finding or penalty by reason of any informality in the proceedings of the Council which did not embarrass or prejudice the appellant in answering the charge or in the conduct of his defence.

(3) For the purpose of any appeal in terms of this section, the court, if it thinks expedient so to do, call in the aid of one or more assessors who are specially qualified and hear the appeal wholly or partly with their assistance but decision of the court in such an appeal shall be made or given by the judge or judges alone.

(4) The remuneration, if any, to be paid to assessor in terms of subsection (3) shall be determined by the court.

36. Publication of result of disciplinary proceedings

(1) The Registrar shall, if so directed by the Council, cause to be printed or published in the Gazette the name of any person—

(a) whose registration has been cancelled; or

(b) who has been suspended from practice;

in terms of this Part.

(2) A notice published in terms of subsection (1) shall be prima facie evidence in all legal proceedings that—

(a) the registration of the person specified in that notice has been cancelled; or

(b) the person so specified in that notice has been suspended from practice for the period specified in that notice;
as the case may be.

37. Improper or disgraceful conduct.

(1) The Council may, in by-laws made in terms of subsection (4) of section forty-one—

(a) define what in the case of an architect shall constitute improper or disgraceful conduct; and

(b) provide for the manner in which complaints or charges against a registered person may be lodged; and

(c) provide for any other matter incidental to the investigation of, and inquiry into, a complaint against a registered person.

(2) Notwithstanding anything to the contrary contained in this Act, by-laws referred to in paragraph (a) of subsection (1) may define that—

(a) any sharing of or agreement to share fees payable in respect of the work of an architect; or

(b) any partnership relating to the work of an architect; between a registered person and a person who is not a registered person or a member of a class of person specified for the purposes of this provision shall constitute improper or disgraceful conduct.

(3) If any registered person has counselled or knowingly been a party to the performance of any act in respect of which an unregistered person has been convicted of an offence under Part V, the conduct of such a registered person shall, for the purposes of this Part, constitute improper or disgraceful conduct:

Provided that this subsection shall not be construed as exempting such registered person from prosecution in a court of law for any offence which such conduct may constitute.

(4) The by-laws referred to in subsection (1) shall not be taken as limiting the general power conferred on the Council to inquire into allegations of improper or disgraceful conduct not covered by such by-laws and to impose any penalty under this Part on any person guilty of such conduct.

PART V

GENERAL

38. Publication of names of members

On appointment or election of a member or alternate member the Registrar shall cause to be published in the Gazette notice of such appointment or election, showing the date from which the appointment or election took effect and the period for which the member or alternate member has been appointed or elected, as the case may be.

39. Offences by unregistered or registered persons

(1) Subject to section forty, a person who is not a registered architect shall not, after the expiration of three months from the appointed day—

(a) perform the work of an architect for gain; or

(b) practise or carry on business under any name, style or title which contains the word “architect”; or

(c) use, by way of advertisement, description, document, drawing or other means, any name, title, addition, description, letters, motto, emblem, symbol, badge, seal or other insignia which indicates or is calculated to lead persons to assume that he is a registered architect; or

(d) pretend to be or by any means whatsoever hold himself out to be a registered architect:

Provided that this subsection shall not preclude the use of the designation “golf course architect”, “landscape architect”, “naval architect” or any similar designation prescribed by the Council.

(2) A registered architect shall not knowingly employ or engage in any capacity whatsoever a person who was registered and –

(a) whose registration has been cancelled and who has not been restored to the Register; or

(b) who has been suspended from practice in terms of this Act, during the period of suspension;

save with prior written consent of the Council, which consent may be given for such a period and subject to such conditions as the Council may determine.

(3) Any person who contravenes the provisions of subsection (1) or (2) shall be guilty of an offence and liable to fine not exceeding level eight or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment [amended by Act 22 of 2001, gazetted on the 1st February, 2002.]

(4) A conviction for an offence in terms of subsection (3) shall not be a bar to a further prosecution or prosecutions for continuance of the offence.

(5) For the purposes of paragraph (a) of subsection (1), a person shall be deemed to be performing the work of an architect for gain if, and only if, he or a partnership of which he is a member or an employee of his or of the partnership—

(a) performs the work of an architect for or in expectation of a fee, gain or reward, direct or indirect, to himself or to any other person; or

(b) holds himself out as prepared in expectation of a fee, gain or reward direct or indirect, to himself or to any other person to perform the work of an architect.

(6) In subsection (5)—
“employee”, in relation to a company, includes a director.

40. Exemptions

(1) Notwithstanding anything to the contrary contained in section thirty-nine, it shall be lawful for—

(a) a person who is—

(i) in the bona fide employment of a registered architect, to perform the work of an architect under the direction and control of such registered architect; or

(ii) engaged by a registered architect to provide a specific service for such architect, to perform, in accordance with the instructions of such registered architect, the work of an architect, other than supervision of the work of constructing buildings or additions hereto;

(b) a body corporate, firm or partnership which carries on business which involves the performance of the work of an architect to perform the work of an architect or to describe or hold itself out to be an architect if—

(i) the business of the body corporate, firm or partnership, so far as it relates to the work an architect, is under direct control and management of a principal who is a registered architect and who does not act at the same time in a similar capacity for any other body corporate, firm or partnership; and

(ii) in every premises where any business referred to in subparagraph (i) is carried on and is not personally conducted by the said principal, such business is being conducted under the direction of the said principal by an assistant who is a registered architect;

(c) a person in the bona fide employment of a body corporate, firm or partnership referred to in paragraph (b) to perform the work of an architect under the direction and control of a principal or assistant referred to in paragraph (b);

(d) a person who is bona fide employed as a clerk of works to carry out the functions that are customarily performed by a clerk of works;

(e) a building society which is registered in terms of the Building Societies Act [Chapter 24:02] to carry on business as a building society and for an bona fide employee of such building society to carry out his duties as such;

(f) a person who is a member of such class of members as may be prescribed by the Minister of The Zimbabwe Institute of Engineers or of any other institution of engineers prescribed by the Minister, or any person in the bona fide employment of such a member, to carry out the functions that customarily performed by members of such class of prescribed members in the normal course of their profession.

(2) It shall be a defence to any charge of contravening paragraph (a) of subsection (1) of section thirty-nine for a person to show that—

(a) he performed the work of an architect for his employer whilst in bona fide full-time employment of his employer and that—

(i) his remuneration was by way of wage or salary and not a fee or commission; and

(ii) he was not employed solely to design or supervise the work of constructing a particular building, buildings or additions thereto;

or

(b) the work of an architect performed by him consisted of an act specified in the Third Schedule.

(3) The provisions of this Act shall not apply to any person in the full-time employment of a municipal council, town council, local board or rural district council, in relation to his duties as such an employee.

(4) For the purposes of paragraph (f) of subsection (1), any function performed by a member such as is referred to in that paragraph shall not be regarded as not being a function that is customarily performed by such members by reason only of the fact that a new technique or process is employed in carrying out that function or that the function relates to an invention or new process and has not therefore previously been performed by such members.

41. Regulatory powers

(1) The Minister, after consultation with the Council, may make regulations prescribing anything which under this Act is required or permitted to be prescribed by the Minister or which, in the opinion of the Minister, is necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) Regulations made in terms of subsection (1) may provide for—

(a) the appointment of a committee of architects to perform the functions of the Council pending the first election of elected members; and

(b) the functions, powers, duties and procedure of the committee referred to in paragraph (a) and the fees and allowances payable from the funds of the Council to the members thereof.

(3) The Minister, after consultation with the Council, may at any time by notice in a statutory instrument, amend the Second Schedule by the insertion of an additional class or classes of persons.

(4) The Council may make by-laws prescribing all matters which by this Act are required or permitted to be by the Council or which, in the opinion of the Council, are necessary or convenient to be prescribed for the purposes of carrying out the functions or exercising the powers of the Council.

(5) By-laws made in terms of subsection (4) may provide for—

(a) the fees which shall be payable—

(i) for registration in the Register or temporary register kept in terms of subsection (2) of section twenty; or

(ii) as annual fees by persons so long as they remain registered and the date on which such fees shall become due and payable; or

(iii) for restoration to the Register; or

(iv) for the issue of duplicate certificates or registration or certified extracts from the Register or other certificates issued by the Registrar;

(b) the certificates to be kept, maintained or issued under this Act and the manner in which alterations thereto may be effected;

(c) the remuneration and allowances payable to members and alternate members or to members of a committee of the Council;

(d) the minimum fees which shall be chargeable by a registered architect for his professional services.

(6) By-laws made in terms of subsection (4) shall not have effect until they have been approved by the Minister and published in a statutory instrument.

42. Council not to be liable

(1) Save as is provided in this Act, no legal proceedings, whether civil or criminal, shall lie against the Council or any member or alternate member or any employee of the Council in respect of any act or duty performed in accordance with Part III or IV.

(2) The Council shall not be responsible for any loss of earnings by a person as a result of action taken under Part IV by the Council.

43. Recovery by Council of costs of penalty

The Council may, by action in a competent court, recover any annual fee payable by a person who is or was registered and any costs or penalty ordered in terms of Part IV to be paid by a person who is or was registered.

44. Burden of proof.

In any criminal proceedings against any person for an offence in terms of section thirty-nine the person charged shall be deemed not to be registered, temporarily registered or exempted unless the contrary is proved.

FIRST SCHEDULE (SECTION 5(2))

POWERS OF THE COUNCIL

1. (1) To fix the terms and conditions of employment of the Registrar and other employees of the Council, including provisions relating to remuneration and allowances, leave of absence, the granting of bonuses, gratuities and pensions and the discharge or suspension of employees.

(2) To authorize the Registrar, after consultation with the chairman or vice-chairman of the Council, to appoint, on behalf of the Council temporary employees at such remuneration as he may consider appropriate and to discharge such employees.

2. To acquire, hire or lease such movable or immovable property as the Council may consider necessary for the effective performance of its functions and to maintain or dispose of such property.

3. To borrow, raise or secure the payment of money, with or without security, as the Council thinks fit and to guarantee or become liable for the payment of money for the performance of an obligation.

4. To enter into contracts and to decide the manner in which contracts shall be entered into on behalf of the Council.

5. to invest funds of the Council which are not immediately required with any bank or other financial institution registered in terms of the Banking Act [Chapter 24:01] or any building society registered in terms of the Building Societies Act [Chapter 24:02] or the Post Office Savings Bank of Zimbabwe.

6. To take any steps which the Council considers expedient—

(a) for the protection of the public in dealings with architects; or

(b) for the maintenance of the integrity and the enhancement of the status and the improvement of the standards of professional qualifications of architects.

7. To encourage research into matters relating to the profession of architecture.

8. To give advice to and render assistance, including financial assistance, to any educational institution, institute of architects or examining body in regard to educational facilities for and the training and education of, persons intending to become architects.
9. To finance, print, circulate, administer the publication of, or take any other steps necessary in connection with, any publications relating to the profession of architecture and cognate matters.
10. Generally to do all such things not specified in this Schedule in the opinion of the Council are necessary for or incidental or conducive to the performance of the functions of the Council or are incidental to the powers specified in this Schedule or which are calculated directly or indirectly to enhance the value of or to develop the property of the Council.

SECOND SCHEDULE (Sections 25, 26 (3) and 41 (3))

PERSONS QUALIFIED FOR REGISTRATION

1. A person who—
 - (a) is of or over the age of twenty-one years; and
 - (b) is ordinarily resident in Zimbabwe; and
 - (c) has passed an examination prescribed by the Council or any examination recognized by the Council as being equivalent to one so prescribed; and
 - (d) has, for such period as is prescribed by the Council, performed—
 - (i) the work of an architect under the direction and control of and in the same office as a registered architect or an architect referred to in subparagraph (b) of paragraph 2; or
 - (ii) architectural work which, in the opinion of the Council, is of sufficient variety and of satisfactory nature and standard for the purposes of registration as an architect.
2. A person who—
 - (a) is ordinarily resident in Zimbabwe; and
 - (b) immediately before the appointed day was a duly registered member of the Institute of Zimbabwe Architects established by section 3 of the Architects (Private) Act [Chapter 208].
3. A person who—
 - (a) is of or over the age of forty-six years old; and
 - (b) is ordinarily resident in Zimbabwe; and
 - (c) immediately before the appointed day was engaged in the performance of work of an architectural nature which, in the opinion of the Council, is of sufficient variety and of a satisfactory nature and standard for the purposes of registration as an architect; and
 - (d) has been engaged in the performance of work referred in subparagraph (c) for a period of not less than twenty-five years prior to the appointed day; and
 - (e) satisfies the Council that he has an adequate knowledge of the legal principles which, in the opinion of the Council, are fundamental to the profession of architecture and an adequate knowledge of the application of those principles.

THIRD SCHEDULE (Section 40 (2))

EXEMPTED WORKS

1. In this Schedule—
 - “Communal Land” means Communal Land as defined in section 2 of the Communal Land Act [Chapter 20:04];
 - “farm” means any rural property used primarily for agricultural or pastoral purposes;
 - “mine” means any mining location as defined in section 5 of the Mines and Minerals Acts [Chapter 21:05] or any site bona fide used for quarrying of sand, clay or stone, including limestone;

“private dwelling-house” means any self-contained dwelling house used or intended for use as a place of residence by one occupier and his household and any outbuildings or other structures ordinarily accessory thereto, but does not include any building which consists of two or more semi-detached dwellings or residences.

2. The designing or supervision of the construction of pre-constructed roofs, kitchen fittings or such other components of buildings are sold in the ordinary course of business by suppliers of building materials or general merchants or of additions thereto.
3. The designing or supervision of the construction of swimming pools, sauna or similar baths or structures accessory thereto or addition thereto.
4. The designing or supervision of the construction of and private dwelling-house or of any addition to a private dwelling-house.
5. The designing or supervision of the construction of any single-storied building—
 - (a) which is used or is to be used as a factory as defined in subsection (2) of section 3 of the Factories and Works Act [Chapter 14:08]; and
 - (b) the floor area of which does not exceed four hundred square metres;or of any addition thereto the floor area of which does not exceed four hundred square metres
6. The designing or supervision of the construction of an building which is—
 - (a) situated or to be situated on a farm; and
 - (b) used or to be used primarily for agricultural or pastoral purposes or as accommodation for an employee of the family of an employee;or of any addition thereto.
7. The designing or supervision of the construction of any building which is—
 - (a) situated or to be situated on a mine; and
 - (b) used or to be used primarily for mining purposes or as accommodation for an employee of the family of an employee;or of any addition thereto.
8. The designing or supervision of the construction of an building—
 - (a) which is used or to be as a school in any area of Communal Land;and
 - (b) the floor are of which does not exceed four hundred and fifty square metres;or of any addition thereto the floor area of which does not exceed four hundred and fifty square metres.
9. The designing or supervision of the construction of any building—
 - (a) which is situated on a farm or a mine or on Communal Land; and
 - (b) which is used or to be used for the purposes of trade or as a beer-hall, recreational centre, medical or welfare clinic, court-house or administrative centre; and
 - (c) the floor area of which, together with any outbuildings or other structures accessory thereto, does not exceed two hundred square metres;or of any addition thereto the floor area of which does not exceed two hundred square metres.
10. The designing or supervision of the construction of any building—
 - (a) which is situated or to be situated on Communal Land; and
 - (b) which is used or to be used for the purpose of worship only; and
 - (c) the floor area of which does not exceed two hundred and fifty square metres;or of any addition thereto the floor area of which does not exceed two hundred and fifty square metres.
11. The designing or supervision of the construction of any building which—
 - (a) is situated or to be situated on Communal Land; and
 - (b) consists of single-storied semi-detached or terraced dwelling-house;or of any addition thereto.
12. The designing or supervision of the construction of any building which is—

- (a) situated or to be situated on Communal Land; and
 - (b) prescribed by the Minister for the purposes of this paragraph;
- or of any addition thereto.