

ENGINEERING COUNCIL ACT, 2011 (ACT 819)

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THE EIGHT HUNDRED AND NINETEENTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

ENGINEERING COUNCIL ACT, 2011

AN ACT to establish an Engineering Council to regulate the practice of engineering and to provide for related matters.

DATE OF ASSENT: 31st May, 2011.

PASSED by Parliament and assented to by the President:

Establishment and functions of the Engineering Council

Section 1—Establishment of the Council

(1) There is established by this Act, a body to be known as the Engineering Council.

(2) Where there is hindrance to the acquisition of property, the property may be acquired for the Council under the State Property and Contracts Act, 1960 (C.A. 6) or the State Lands Act, 1962 (Act 125) and the cost shall be borne by the Council.

Section 2—Object of the Council

The object of the Council is to secure the highest professional standards in the practice of engineering.

Section 3—Functions of the Council

To achieve the object, the Council shall

- (a) regulate the practice of engineering;
- (b) determine and prescribe requirements for initial and continuing registration;
- (c) maintain and publish annually, registers for engineering practitioners in the country;
- (d) determine the limits to areas of engineering practice and operation;
- (e) monitor, evaluate and take corrective actions on the performance of engineering practitioners, firms and units;
- (f) collaborate with the National Accreditation Board and other bodies to certify programmes of education relevant for engineering practice;
- (g) licence relevant and appropriate engineering bodies to certify individuals and corporate bodies for initial and continuing registration;
- (h) prescribe, uphold and enforce professional standards, conduct and ethics of engineering practitioners;

- (i) exercise disciplinary power over engineering practitioners in respect of the practice of their profession and works related to the practice of engineering;
- (j) advise the Minister on engineering matters; and
- (k) perform any other functions that are ancillary to the object of the Council.

Section 4—Governing body of the Council

- (1) The governing body of the Council is a Board consisting of
 - (a) a chairperson who is a registered professional engineer,
 - (b) a registered professional engineer nominated by relevant licensed bodies,
 - (c) a registered engineering technologist nominated by relevant licensed bodies,
 - (d) a registered engineering technician nominated by relevant licensed bodies,
 - (e) a registered engineering craftsman nominated by relevant licensed bodies,
 - (f) a representative not below the rank of a Director from one of the engineering related Ministries,
 - (g) the Head from one of the accredited engineering educational institutions,
 - (h) a distinguished legal practitioner of not less than ten years standing as a lawyer nominated by the Minister on the advice of the Ghana Bar Association, and
 - (i) the Registrar of the Council, who is a registered professional engineer.
- (2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.
- (3) The Board shall ensure the proper and effective performance of the functions of the Council.

Section 5—Tenure of office of members

- (1) A member of the Board shall hold office for a period not exceeding three years and is eligible for re-appointment but a member shall not be appointed for more than two terms.
- (2) Subsection (1) does not apply to the Registrar.
- (3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.
- (4) A member of the Board, who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.
- (5) The President may by letter addressed to a member revoke the appointment of that member.
- (6) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.
- (7) Where there is a vacancy

- (a) under subsection (3), (4) or section 7 (2), or
- (b) as a result of a declaration under subsection (6), or
- (c) by reason of the death of a member, the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

Section 6—Meetings of the Board

- (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.
- (2) The chairperson shall at the request in writing of not less than one-third of the membership of the Board convene an extraordinary meeting of the Board at the place and time determined by the chairperson.
- (3) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.
- (4) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.
- (5) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

Section 7—Disclosure of interest

- (1) A member of the Board who has an interest in a matter for consideration shall
 - (a) disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and
 - (b) not participate in the deliberations of the Board in respect of that matter.
- (2) A member ceases to be a member of the Board if that member has an interest in a matter before the Board and
 - (a) fails to disclose that interest, or
 - (b) participates in the deliberations on the matter.

Section 8—Establishment of committees

- (1) The Board may establish committees consisting of members of the Board or non-members and members of the Board to perform a function.
- (2) Without limiting subsection (1), the Board shall have a Disciplinary Committee.
- (3) A committee of the Board shall be chaired by a member of the Board except that the Disciplinary Committee shall be chaired by the legal representative on the Board.

Section 9—Allowances

Members of the Board and members of a committee of the Board shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

Section 10—Branch offices of the Council

- (1) The Board may establish branch offices of the Council in places determined by the Board.
- (2) A branch office of the Council shall perform the functions of the Council that the Board may direct.

Section 11—Ministerial directives

The Minister may give directives to the Board on matters of policy and the Board shall comply.

Registration

Section 12—Annual registration

The Board shall register annually

- (a) engineering practitioners;
- (b) engineering firms; and
- (c) licensed bodies and educational units that offer engineering as a course of instruction to operate in the country.

Registration of engineering practitioners

Section 13—Application for registration

- (1) A person shall not offer engineering services or practice engineering unless that person is registered in accordance with this Act.
- (2) A person seeking registration shall apply to the Registrar through a licensed body in a manner determined by the Board.

Section 14—Qualification for registration

- (1) A person does not qualify to be registered to practice engineering unless that person is certified by a licensed body.
- (2) The licensed body shall inform the Board of the acceptance or refusal of the application for registration to practice engineering not later than three months after the receipt of the application.
- (3) Where a licensed body refuses to accept an application, it shall notify the applicant of the refusal and give reasons for the refusal within seven days.
- (4) Where a licensed body certifies an application the Board shall issue a certificate of registration to the applicant.
- (5) An applicant may apply for a review of a decision of a licensed body within twenty-one days of receipt of notification of the refusal.

(6) An applicant who is dissatisfied with the reasons given by a licensed body may appeal to the Board within twenty-one days of the notification of the reasons for the refusal.

(7) Where on appeal, the Board determines that the application is acceptable, the Board shall direct the licensed body to certify the applicant for registration and the Board shall issue a certificate of registration to the applicant.

Section 15—Certificate of registration

(1) Where an application for registration is accepted by the Board the Board shall issue a certificate of registration to the registered engineering practitioner.

(2) A certificate of registration is valid until the 31st day of December in the year of initial registration and is renewable annually by the 31st day of December on the

(a) satisfaction of the conditions for continuing registration set by the Board; and

(b) payment of the prescribed fee.

Section 16—Register of engineering practitioners

(1) The Council shall have four registers for the registration of engineering practitioners.

(2) The registers are

(a) professional engineers' register,

(b) professional engineering technologists' register,

(c) engineering technicians' register, and

(d) engineering craftsmen's register.

(3) A person is qualified to practice engineering if that person is registered in any of the registers.

(4) The Registrar shall record the names of registered engineering practitioners in the register.

(5) The registers shall be classified into temporary and permanent registers.

(6) An engineering practitioner who intends to practise permanently in the country shall be registered in the permanent Register.

(7) An engineering practitioner who does not intend to practise in the country for more than twelve months shall be registered in the temporary Register.

(8) The Registrar shall keep the registers.

Section 17—Suspension or cancellation of registration

(1) The Board may suspend or cancel the certificate of registration of an engineering practitioner where an enquiry conducted by the Board confirms that the registered engineering practitioner

(a) has been convicted of an offence under this Act;

(b) has been convicted of an offence related to engineering under any other enactment; or

(c) is guilty of professional misconduct.

(2) A person dissatisfied with a decision of the Board may appeal to the High Court.

Section 18—Notice of suspension or cancellation

(1) Where a certificate of registration is to be suspended or cancelled, the Registrar shall

(a) serve on the affected engineering practitioner a notice of the order and require the engineering practitioner to deliver the certificate of registration to the Registrar within twenty-one days of the date of service;

(b) publish in the Gazette a notice of the cancellation or suspension; and

(c) in the case of a cancellation, delete the name of the engineering practitioner from the Register of engineering practitioners.

(2) Despite subsection (1)

(a) the Registrar shall not delete the name of a person from the register unless that person has been found guilty of professional misconduct by the Disciplinary Committee established under section 8 (2); and

(b) where an engineering practitioner applies for a review of a cancellation or suspension, the Registrar shall only act in accordance with subsection (1), on the expiration of the period of notice for review or after the disposal of the review.

(3) The Registrar shall at the expiration of a suspension period restore the certificate to the engineering practitioner and cause notice of the expiration of the suspension to be published in the Gazette.

Section 19—Re-registration

An engineering practitioner whose registration has been cancelled may apply for consideration to be re-registered if a period of not less than five years has elapsed after the date of the notice of the cancellation was published in the Gazette.

Registration of engineering firms

Section 20—Application for registration

(1) An engineering firm shall not put itself out, solicit for or offer engineering services to the public or engage in engineering practice unless it is registered under this Act.

(2) An engineering company or engineering unit of a corporate body seeking to be registered may apply to the Registrar in a form determined by the Board.

(3) The Board may direct the Registrar to issue to the applicant a licence authorising the applicant to carry on business on the payment of the prescribed fee if the Board is satisfied that the applicant

(a) is fit to carry on engineering business, and

(b) the business will be carried on by or under the supervision of a registered engineering practitioner.

Section 21—Types of engineering firms and units

An engineering firm may be registered as

- (a) a consulting engineering firm;
- (b) an engineering contracting company;
- (c) an engineering service provider;
- (d) a manufacturing company;
- (e) a fabrication, repair and maintenance unit; and
- (f) a vendor of machinery equipment appliance and engineering materials.

Section 22—Power of Board to limit type of service

The Board shall determine

- (a) limits to the type of services provided by each category of engineering firm, and
- (b) the class of engineering practitioners that may be responsible for the type of engineering services that are to be offered by a firm.

Section 23—Revocation of licence

(1) A licence may be revoked if the Board is satisfied that

- (a) the engineering company or the engineering unit of a body corporate that holds the licence has acted contrary to this Act; or
- (b) a condition specified in the licence for the carrying on of the business has ceased to exist.

(2) An engineering company or the engineering unit of a body corporate aggrieved by the revocation of its licence may apply to the High Court for a judicial review of the decision.

(3) A revoked licence may be restored if the Board is satisfied that the engineering body has complied with the condition specified in the licence for the carrying on of the engineering business.

Registration of engineering educational units and engineering programmes

Section 24—Registration

An engineering educational unit of an institution shall not offer engineering education or hold itself out as a unit that offers engineering education unless the educational unit has satisfied requirements and standards prescribed by the Board and approved by the National Accreditation Board.

Section 25—Power of Board to specify and conduct examinations

(1) The Board may specify and conduct examinations for holders of certificates, diplomas, degrees and other qualifications which are not recognised by the Council.

(2) Holders of qualifications specified in subsection (1) shall pass the examinations specified and conducted by the Board before they are registered.

Section 26—Power of Board to recognise engineering programmes for purposes of registration

(1) The Board shall ensure that relevant educational institutions or bodies provide instruction and information in engineering practice that is relevant for the professional education of engineers.

(2) In furtherance to subsection (1), the Board shall

(a) determine the minimum content of engineering education programmes required for initial registration of engineering practitioners, and

(b) collaborate with the National Accreditation Board and other relevant bodies to ensure that the minimum educational requirements are satisfied.

Section 27—Inspection teams

(1) The Board shall collaborate with the National Accreditation Board and other relevant bodies to appoint an inspection team to undertake visits to engineering departments of educational institutions for the purpose of ascertaining whether the engineering programmes satisfy the requirement for initial and continuing registration.

(2) Based upon the findings of the inspection team, the Board may register an engineering programme for a fixed period or withdraw the registration of an engineering programme in which case the Board shall make recommendations that it considers necessary with respect to courses of study or examinations and request the department to give effect to the recommendations.

Section 28—Revocation of licence of engineering educational units

(1) The Board shall revoke the licence of an engineering educational unit of an institution if it is satisfied that

(a) the engineering educational unit has acted contrary to this Act, or

(b) a condition specified in the licence for the carrying on of the business has ceased to exist.

(2) An engineering educational unit aggrieved by the revocation of its licence may apply to the High Court for a judicial review of the decision.

(3) A revoked licence may be restored if the Board is satisfied that the engineering educational unit has complied with the condition specified in the licence for the carrying on of engineering education.

Section 29—Engineering documents, works and other provisions Preparation of documents

(1) Subject to this Act, a person, shall not create, prepare, issue or authorise issuance of an engineering document unless that person is registered under this Act.

(2) A person who contravenes subsection (1), commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units.

Section 30—Acceptance of works

(1) Subject to this Act, a person, shall not approve, accept to approve or certify any engineering works unless that person, is registered under this Act.

(2) A person who contravenes subsection (1), commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units.

Section 31—Rights of registered engineering practitioners

A registered engineering practitioner may create, design, manufacture, prepare drawings and documents, construct, fabricate, install, maintain and undertake any other engineering activity within the field of specialisation for which they have been registered and subject to limitations prescribed by the Board.

Section 32—Endorsement of documents

A registered engineering practitioner who draws, creates, prepares or approves any engineering document shall endorse or cause to be endorsed on the document the engineering practitioner's

- (a) name,
- (b) signature,
- (c) registration number, and
- (d) date.

Section 33—Operation of firms

(1) Subject to this Act, a person shall not operate an engineering firm, unless there is a registered engineering practitioner in partnership, joint venture or other permanent association with that person.

(2) A registered engineering practitioner who is in a partnership, joint venture or other permanent association under subsection (1), shall

- (a) verify the performance of engineering functions;
- (b) supervise the creation and preparation of engineering documents and works; and
- (c) authorise the issuance of each engineering document.

Section 34—Applicable standards and review

(1) A registered engineering practitioner or engineering firm involved in any form of engineering practice shall conform to existing and approved local standards for safety, environmental, technical, health and other appropriate international standards, acceptable to the Board.

(2) Despite subsection (1), each registered engineering practitioner or firm shall when requested by the Board, submit engineering works to a mandatory peer review by a committee to be determined by the Board.

Section 35—Restriction on use of 'Engineer', 'engineering' and other designations

(1) A person who is not a registered engineering practitioner shall not

(a) use the description registered engineering practitioner, nor use any other appellation reserved exclusively for registered engineering practitioners;

(b) use any designation referable to registered engineering practitioners that the Council may prescribe for a particular group of engineering practitioners.

(2) A person shall not

(a) perform, offer or permit any other person, under that person's control to perform, or

(b) offer services to the public under

(i) the description of 'engineer' or engineering,

(ii) the name of an engineering concern, or

(iii) any other similar description, unless that person, is registered under this Act.

Section 36—Annual publication in the Gazette

The Registrar shall publish the list of registered engineering practitioners, firms, licensed bodies and educational units of good standing in the Gazette by the 31st January of each year.

Staff, financial and miscellaneous provisions

Section 37—Registrar

(1) The Board shall, in accordance with article 195 of the Constitution, appoint a registered professional engineer of not less than ten years standing as the Registrar of the Council.

(2) The Registrar shall hold office on terms and conditions specified in the letter of appointment.

(3) The Registrar is the secretary to the Board.

Section 38—Functions of the Registrar

(1) The Registrar is responsible for the day to day administration of the affairs of the Council and is answerable to the Board in the performance of functions under this Act.

(2) The Registrar shall perform any other function determined by the Board.

(3) The Registrar may delegate a function to an officer of the Council but shall not be relieved from the ultimate responsibility for the performance of the delegated function.

Section 39—Appointment of other staff

- (1) The Council shall have officers and staff that are necessary for the proper and effective performance of its functions.
- (2) The Board shall in accordance with article 195 of the Constitution appoint the officers and staff of the Council.
- (3) The Council may engage the services of advisers on the recommendations of the Board.
- (4) Other public officers may be transferred or seconded to the Council or may otherwise give assistance to it.

Section 40—Collaboration with other bodies

The Board shall collaborate with other bodies in the performance of functions under this Act.

Section 41—Funds of the Council

The funds of the Council include

- (a) moneys provided by Parliament,
- (b) fees and charges accruing to the Council,
- (c) donations, grants and gifts, and
- (d) any other moneys that are approved by the Minister responsible for Finance.

Section 42—Accounts and audit

- (1) The Board shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.
- (2) The Board shall submit the accounts of the Council to the Auditor-General for audit within three months after the end of the financial year.
- (3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.
- (4) The financial year of the Council shall be the same as the financial year of the Government.

Section 43—Annual report and other reports

- (1) The Board shall within one month after the receipt of the audit report, submit an annual report to the Minister covering the activities and the operations of the Council for the year to which the report relates.
- (2) The annual report shall include the report of the Auditor-General.
- (3) The Minister shall within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.
- (4) The Board shall also submit to the Minister any other reports which the Minister may require in writing.

Section 44—Offences

(1) A person who

- (a) makes a false declaration in an application for registration;
- (b) wilfully and falsely uses a name, title or addition implying a qualification to practise as an engineering practitioner under this Act;
- (c) without being registered under this Act
 - (i) practises or professes to practise as an engineering practitioner; or
 - (ii) designs, draws or prepares engineering documents; or
 - (iii) approves or certifies an engineering work; or
 - (iv) operates an engineering firm without a registered engineering practitioner in partnership;
- (d) wilfully destroys or damages a register kept under this Act; or
- (e) contravenes any other provision of this Act,

commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than two years or to both and in the case of a continuing offence to a further fine often penalty units for each day during which the offence continues after written notice has been served on the offender by the Board.

(2) Where an offence under this Act is committed by a body of persons or organisation

- (a) in the case of a body corporate other than a partnership, each director, or secretary of that body shall be guilty of the offence; and
- (b) in the case of a partnership, each partner shall be guilty of the offence.

(3) Despite subsection (2) a person shall not be convicted of an offence if the person proves that the offence was committed without that person's knowledge or consent, or that the person took the necessary steps having regard to the circumstances, to prevent the commission of the offence.

Section 45—Regulations

The Minister may on the advice of the Board and in consultation with the appropriate licensing body, by legislative instrument make Regulations

- (a) to prescribe details of registers to be kept;
- (b) provide for the discipline of registered engineering practitioners, engineering companies and firms;
- (c) to prescribe matters relating to
 - (i) professional standards;
 - (ii) approval of engineering documents and works;

- (d) to prescribe the fees to be paid under this Act;
- (e) to prescribe conditions for the issuance of a valid certificate by the Board; and
- (f) to provide generally for any other matter necessary for the effective implementation of the provisions of this Act.

Section 46—Interpretation

In this Act unless the context otherwise requires,

"Council" means the Engineering Council established under section 1 of this Act;

"engineering" means the science and art of applying scientific and mathematical principles, experience, judgement and common sense to create, maintain, sustain, develop and apply technology for the needs and desires of society;

"engineering document" means any document arising from the practice of engineering;

"engineering firm" means any body or organisation carrying out engineering works or services;

"engineering practitioner" means any person in the practice of engineering;

"engineering works or services" means any works or services which are the products of engineering activities;

"inspection team" means a team appointed by the Board to assess standards at engineering departments of an Institution;

"Minister" means the Minister responsible for Water Resources, Works and Housing;

"registered engineering firm" means an engineering firm registered under this Act;

"registered engineering practitioner" means an engineering practitioner registered under this Act;

"registered engineering programme" means any engineering educational programme registered under this Act; and

"registered licensed body" means any licensed body registered under this Act.

Section 47—Transitional provisions

An engineering practitioner or engineering firm in practice before the commencement of this Act shall register to practice under this Act or obtain a licence within six months of the commencement of this Act.

Date of Gazette Notification: 10th June, 2011.