

**CHAPTER 27:22**  
**ENGINEERING COUNCIL ACT**

*Act 3/2008*

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**To establish an Engineering Council of Zimbabwe and to provide for its functions and powers; to provide for the registration and regulation of the practice of engineers and technicians; to amend the Zimbabwe Institution of Engineers (Private) Act [*Chapter 27:16*]; and to provide for matters incidental to or connected with the foregoing.**

[Date of commencement : 15th June, 2009.]

ENACTED by the President and the Parliament of Zimbabwe.

## PART I

### PRELIMINARY

#### 1 Short title and date of commencement

- (1) This Act may be cited as the Engineering Council Act [*Chapter 27:22*].
- (2) This Act shall come into operation on a date to be fixed by the President by statutory instrument.

#### 2 Interpretation

In this Act—

“by-laws” means by-laws made in terms of section 38;

“constituent body” means an institute, institution, body or federation established by engineers or technicians or both to promote their collective professional interests in one or more of the engineering disciplines defined in the First Schedule, which is declared to be a constituent body of the Council in terms of section 3(5)(a);

“Council” means the Engineering Council of Zimbabwe established by section 4;

“engineer” means a practitioner of any one or more of the engineering disciplines defined in the First Schedule who is entitled to call himself or herself an engineer by virtue of—

- (a) holding such university or college degree or other qualification and having such relevant experience as are recognised by the relevant constituent body for the purposes of the engineering discipline or disciplines of which he or she is a practitioner; or
- (b) being, at the date of commencement of this Act, a fellow or member of the appropriate grade in good standing of the Zimbabwe Institution of Engineers;

“engineering profession” means the body of persons in Zimbabwe engaged as engineers or technicians in any one or more of the engineering disciplines defined in the First Schedule;

“engineering work” means the practice, whether as an engineer or technician, of any one or more of the engineering disciplines defined in the First Schedule to a prescribed standard or level;

“financial year”, in relation to the Council, means the financial year referred to in section 10;

“holder”, in relation to a practising certificate, means the person to whom the practising certificate is issued;

“member” means the chairperson or any other member of the Council;

“Minister” means the Minister of Local Government, Public Works and Urban Development or any other Minister to whom the President may from time to time assign the administration of this Act;

“practise as an engineer or technician” means perform any engineering work;

“prescribe” means prescribe in terms of regulations made under section 37, by-laws made under section 38 or rules made under section 39, which ever is appropriate to the context;

“Register” means the Register of Engineers and Technicians established in terms of section 14(1), and includes any sub-register referred to in the proviso to section 14(1);

“secretary” means the person appointed as secretary to the Council under section 8;

“technician” means a junior or assistant engineer, that is, a junior or assistant practitioner of any one or more of the engineering disciplines defined in the First Schedule, who is entitled to call himself or herself a technician by virtue of—

- (a) holding such college diploma or other qualification and having such relevant experience as are recognised by the relevant constituent body for the purposes of the engineering discipline or disciplines of which he or she is a practitioner; or
- (b) being, at the date of commencement of this Act, a fellow or member in good standing of the Zimbabwe Institution of Engineers;

“temporary register” means the temporary register of engineers and technicians established in terms of section 14(2);

“Zimbabwe Institution of Engineers” means the Zimbabwe Institution of Engineers established under the Zimbabwe Institution of Engineers (Private) Act [*Chapter 27:16*].

### 3 Constituent bodies

(1) Subject to this section, the following bodies shall be constituent bodies of the Council for the purposes of this Act—

- (a) the Zimbabwe Institution of Engineers;
- (b) any other body declared to be a constituent body in terms of subsection (5)(a).

(2) Any body of engineers or technicians of any class wishing to become a constituent body of the Council (hereafter in this section called the “applicant body”) shall make a written application to the Council—

- (a) specifying the engineering discipline or disciplines to be governed by the applicant body; and
- (b) describing the manner in which the applicant body proposes to be incorporated, whether as an unregistered association, or a company limited by guarantee under the Companies Act [*Chapter 24:03*], or otherwise; and
- (c) showing proof that the applicant body will be fairly representative of the class of engineers or technicians it proposes to represent; and
- (d) attaching the constitution, memorandum and articles of association, rules or other document by which the applicant body will be constituted and governed; and
- (e) attaching such other written information as the Council may reasonably require or prescribe in by-laws.

(3) The Council, after considering an application received in terms of subsection (2), shall recommend to the Minister whether or not he or she should declare the applicant body to be a constituent body in terms of subsection (5)(a), and for that purpose shall forward to the Minister its recommendation in writing with the application and all related documentation received from the applicant body in terms of subsection (2).

(4) The Minister may, in considering any recommendation of the Council made under subsection (3), invite the Council and the applicant body to make further representations to him or her orally or in writing.

(5) The Minister may, on the recommendation of the Council, by statutory instrument—

- (a) declare that any body which is established in Zimbabwe to advance the interests of any class of engineers and technicians shall be a constituent body for the purposes of this Act; or
- (b) declare that a constituent body whose membership or standards have fallen below a level, which, in the opinion of the Council, no longer qualifies it to be represented on the Council, shall cease to be a constituent body for the purposes of this Act; or
- (c) declare any change in the name of a constituent body.

## PART II

### ENGINEERING COUNCIL OF ZIMBABWE

#### 4 Establishment of Engineering Council of Zimbabwe

(1) There is hereby established a council to be known as the Engineering Council of Zimbabwe.

(2) The Council shall be a body corporate, with perpetual succession, and capable of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

#### 5 Functions of Council

(1) Subject to this Act, the functions of the Council shall be—

- (a) to consider and administer applications for registration in terms of Part III;
- (b) to maintain the Register;
- (c) to issue practising certificates to registered persons in terms of Part IV and, in accordance with that Part, to cancel or suspend such certificates;
- (d) to ensure that constituent bodies have adequate procedures to enforce ethical practice and discipline among persons registered under this Act;
- (e) to encourage cooperation between constituent bodies in matters of common interest;
- (f) to take such steps as appear to the Council to be necessary or desirable to advance the standing and effectiveness of the engineering profession of Zimbabwe;
- (g) to promote the view of the engineering profession on national, regional and international issues;
- (h) to evaluate, monitor and uphold the standards of qualifying criteria or examinations, courses and training set or offered by constituent bodies in terms of section 39;
- (i) to encourage manpower development to meet the requirements of the engineering profession in Zimbabwe;
- (j) to provide for the accreditation of college-based courses.

(2) Subject to this Act, for the better exercise of its functions the Council shall have power to do or cause to be done, either by itself or through its agents, all or any of the things specified in the Second Schedule, either absolutely or conditionally and either solely or jointly with others.

#### 6 Membership and meetings of Council

(1) The Council shall consist of the following thirteen members appointed by the Minister—

(a) one shall be a registered engineer nominated by each constituent body:

Provided that if, at the time of nomination—

- (i) there is only one constituent body or fewer than eight constituent bodies, that body or those bodies shall submit to the Minister a list of nominees representing each of the engineering disciplines defined in the First Schedule (or as many of those disciplines as possible), from which the Minister shall choose eight members; or
- (ii) there are more than eight constituent bodies, those bodies shall each nominate a registered engineer, and from the pool of registered engineers thus nominated the Minister shall choose eight members;

and

(b) one shall be a registered technician nominated by a constituent body:

Provided that if, at the time of nomination, there are two or more constituent bodies, those bodies shall each nominate a registered technician, and from the pool of registered technicians thus nominated the Minister shall choose one member; and

(c) one shall be a registered engineer chosen from a list of nominees submitted to the Minister by universities in Zimbabwe which have engineering faculties; and

(d) three other members, one of whom shall be a registered legal practitioner;

(2) Casual vacancies in the office of a member referred to in proviso (ii) to subsection (1)(a) or the proviso to subsection (1)(b) shall be filled on a rotational basis, that is to say, the Council shall invite only those constituent bodies whose engineering disciplines were not previously represented on the Council to submit nominations to the Minister to fill the vacancy.

(3) If any constituent body or university referred to in subsection (1)(c) fails, neglects or refuses to submit any names or make any nomination for the purposes of subsection (1)(a), (b) or (c) or (2), the Minister may in terms of the appropriate provision appoint any person, whether that person is qualified in terms of that provision or not, whom he or she thinks fit to be a member.

(4) A constituent body may appoint an alternate to any member appointed in terms of subsection (1)(a) or (b) or (2), and the alternate member—

(a) shall act as a member only when the member for whom he or she is alternate is for any reason unable to exercise his or her functions as a member; and

(b) when acting as a member, shall exercise the functions of the member for whom he or she is alternate:

Provided that the alternate to the chairperson and vice-chairperson of the Council shall not exercise the functions of the chairperson and vice-chairperson, as the case may be.

(5) As soon as possible after appointing an alternate member to the Council, the constituent body concerned shall inform the secretary of the Council, in writing, of the name and address of the alternate member so appointed.

(6) The Third Schedule shall apply to the qualifications of members of the Council, their terms and conditions of office, vacation of office, committees and the procedure to be followed by the Council at its meetings.

## **7 Chairperson and vice-chairperson of Council**

(1) At its first meeting in any financial year, the Council shall elect from among its members a chairperson and a vice-chairperson who shall hold office for two years.

(2) If the chairperson or vice-chairperson of the Council dies or ceases to be a member of the Council, the Council shall elect an interim successor at its next meeting, who shall hold office until the Council elects a new chairperson or vice-chairperson, as the case may be, in terms of subsection (1).

(3) The vice-chairperson of the Council shall exercise the chairperson's functions during any period that the chairperson is unable to do so.

## **8 Secretary and other staff of Council**

The Council shall appoint a secretary and such members of staff as will enable the Council to carry out its functions in terms of this Act.

## **9 Funds of Council**

The funds of the Council shall consist of—

(a) fees paid for registration and for the issue of practising certificates; and

(b) levies paid to it by constituent bodies in terms of by-laws; and

(c) any other moneys to which the Council may become entitled, whether by way of grants, fees, gifts approved by the Minister, loans or otherwise.

## **10 Financial year of Council**

The financial year of the Council shall be the period of twelve months ending on the 31st December in each year or on such other date as may be prescribed in by laws.

## **11 Accounts of Council and audit of accounts**

(1) The Council shall keep proper books of account and other records relating thereto in respect of all its activities, undertakings and property, including such particular accounts and records as the Minister may direct.

(2) The Council shall—

(a) appoint as auditors one or more persons approved by the Minister who are registered public auditors; and

(b) ensure that its accounts are examined once in each financial year by the auditors appointed in terms of paragraph (a), in accordance with current auditing practice and such directions as the Minister may give the Council from time to time.

## **12 Annual reports and financial statements of Council**

(1) Within six months after the end of each financial year, the Council shall prepare an annual report and audited financial statements in respect of that financial year, and shall forthwith submit a copy of the report and audited financial statements and a list of registered engineers and technicians whose names appeared on the Register on the last day of that financial year to the Minister and to each constituent body.

(2) In addition to the annual report referred to in subsection (1), the Council—

(a) shall submit to the Minister such other reports as the Minister may require; and

(b) may submit to the Minister such other reports as the Council may consider advisable;

in regard to the functions, operations and property of the Council.

(3) The Council shall give the Minister all such information relating to its functions, operations and property as the Minister may at any time require.

(4) The Minister may lay a report submitted to him or her in terms of subsection (1) or (2) before Parliament.

## **13 Minister's right to investigate**

(1) The Minister may at any time cause an investigation to be made into the affairs of the Council by one or more persons appointed by him or her in writing.

(2) A person appointed in terms of subsection (1) shall have the same powers as are conferred upon a commissioner by the Commissions of Inquiry Act [*Chapter 10:07*], other than powers to order a person to be detained in custody, and sections 2(2), 9 to 12 and 14 to 18 of that Act shall apply, with such modifications as may be necessary, in relation to an investigation made in terms of subsection (1) and to any person summoned to give or giving evidence at that investigation.

### **PART III**

#### REGISTER AND REGISTRATION

#### **14 Register of Engineers and Technicians**

(1) The Council shall establish a register, to be known as the Register of Engineers and Technicians, which shall be divided into two parts, one for the registration of engineers and the other for the registration of technicians:

Provided that the Council may further divide the Register into sub-registers for the registration of practitioners in each of the engineering disciplines defined in the First Schedule.

(2) The Council shall establish and maintain, subject to this Act, a Register of Engineers and Engineering Technicians who are temporarily registered in terms of section 17.

(3) The secretary of the Council shall be responsible, subject to any direction given to him or her by the Council, for maintaining the Register and ensuring that entries are made in the appropriate part of the Register recording—

- (a) the name and such other particulars as may be prescribed of each person whom the Council has directed shall be registered; and
- (b) the fact that a practising certificate has been issued to a registered person, or that any such practising certificate has ceased to be valid; and
- (c) particulars of the cancellation or suspension of any person's registration, and of the restoration of any such cancelled registration or the termination of any such suspension; and
- (d) any necessary corrections or alterations to any particulars or facts referred to in paragraph (a), (b) or (c); and
- (e) any other particulars that may be prescribed or that the Council may determine.

#### **15 Register to be open to inspection**

Any person may inspect the Register and make copies of any entry therein at all reasonable times on payment of such fee as may be prescribed:

Provided that no such fee shall be payable by a police officer or member of the Public Service acting in the course of his or her duty as such.

#### **16 Qualification for registration**

(1) Subject to subsection (2), a person shall be qualified for registration as an engineer or as a technician if he or she—

- (a) is a member in good standing of any constituent body; and
- (b) is ordinarily resident in Zimbabwe; and
- (c) has attained the age of majority.

(2) A person shall not be qualified for registration if—

- (a) he or she has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or
- (b) he or she has made an assignment to or arrangement or composition with his or her creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or
- (c) within the period of five years immediately preceding his or her application for registration—
  - (i) he or she has been convicted inside or outside Zimbabwe of a criminal offence which, in the opinion of the Council, is of a disgraceful or dishonourable nature, and he or she has not received a free pardon; or
  - (ii) he or she has behaved in a manner which, in the opinion of the Council, is of a disgraceful or dishonourable nature;

or

- (d) he or she has been certified either inside or outside Zimbabwe to be mentally disordered or intellectually handicapped in terms of the Mental Health Act [*Chapter 15:12*] (No. 15 of 1996) or an equivalent law in a foreign country, and the certification remains in force; or

- (e) the constituent body of which he or she is a member has ceased to be a constituent body in terms of section 3 (5)(b), and he or she has failed to become a member or affiliate of another constituent body within twelve months of the date when his or her constituent body ceased to be such.

## **17 Temporary registration**

(1) Subject to this Act, any person who has, in the opinion of the Council, been engaged in good faith to perform engineering work in a consultative capacity and who—

- (a) is not ordinarily resident in Zimbabwe; and
- (b) is or is over the age of twenty one years; and
- (c) has passed an examination prescribed by the Council for the purpose of this section or any examination recognized by the Council as being equivalent thereto; and
- (d) has at least three years' practical experience in engineering work which in the opinion the Council is of a sufficient variety and of a satisfactory nature or standard for the purpose of temporary registration;

may apply for registration in the temporary register.

(2) If the Council is satisfied that a person who has made an application in terms of subsection (1) qualifies to be registered in the temporary register, it shall direct the secretary 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 a period not exceeding twelve months, as the Council may in each case determine.

(4) A person who is or has been registered in 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, with such changes as may be necessary, apply in relation to the temporary register, temporary registration and certificates of temporary registration as they apply to the Register, registration in the Register and certificates of registration.

## **18 Application for registration**

(1) Any person who wishes to be registered as an engineer or technician shall submit to the constituent body of which he or she is a member an application in the form and manner prescribed, together with the prescribed application fee (which is not refundable in the event of an unsuccessful application).

(2) On receipt of an application in terms of subsection (1), the secretary or registrar or other executive officer of the constituent body concerned shall certify in writing whether or not the applicant is—

- (a) a member in good standing of the constituent body; and
- (b) qualified for registration as an engineer or technician, as the case may be;

and shall forward the application, together with the prescribed application fee, to the Council.

## **19 Registration**

(1) The Council shall consider every application for registration forwarded to it in terms of section 18 and—

- (a) if the Council is satisfied that the applicant is qualified for registration, the Council shall direct the secretary to register the applicant in the appropriate part of the Register; or
- (b) if the Council is not satisfied that the applicant is qualified for registration, the Council shall refuse the application and direct the secretary to notify the applicant in writing of its decision through his or her constituent body.

(2) Whenever the secretary registers a person in terms of this section he or she shall issue that person with a certificate in the form prescribed, indicating the part of the Register in which that person has been registered, and inform the constituent body in writing accordingly.

(3) If the Council is of the opinion that a person is disqualified for registration, the Council shall, before refusing to register that person—

- (a) inform the applicant through his or her constituent body in writing of the grounds on which it believes that he or she does not qualify for registration, and afford the applicant a reasonable opportunity to make representations to it in the matter, either in writing or in person, as the Council thinks fit; and
- (b) pay due regard to any representations made by him or her in terms of paragraph (a).

## **20 Cancellation or suspension of registration**

(1) Subject to subsection (3), the Council shall direct the secretary to cancel the registration of any registered person—

- (a) whose membership of a constituent body has been cancelled by that body; or
- (b) who has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country; or

- (c) who has made an assignment to or arrangement or composition with his or her creditors in terms of a law in force in any country; or
  - (d) who has been convicted inside or outside Zimbabwe of a criminal offence which, in the opinion of the Council, is of a disgraceful or dishonourable nature; or
  - (e) who is certified either inside or outside Zimbabwe to be mentally disordered or intellectually handicapped in terms of the Mental Health Act [*Chapter 15:12*] (No. 15 of 1996) or an equivalent law in a foreign country.
- (2) If the Council is notified in writing by a constituent body that it has—
- (a) suspended the membership of a registered person, the Council shall suspend that person's registration for the same period as his or her membership of the constituent body has been suspended;
  - (b) cancelled the membership of a registered person, the Council shall cancel that person's registration.
- (3) Before cancelling or suspending the registration of a registered person in terms of subsection (1)(b), (c), (d) or (e), the Council shall—
- (a) inform him or her in writing through his or her constituent body of the grounds on which it proposes to cancel or suspend his or her registration and afford him or her a reasonable opportunity to make representations to it in the matter, either in writing or in person, as the Council thinks fit; and
  - (b) pay due regard to any representations made by him or her in terms of paragraph (a).
- (4) Whenever the Council cancels or suspends a person's registration in terms of this section, the secretary shall notify that person and his or her constituent body in writing of the cancellation or suspension.

## **21 Restoration of registration**

The Council shall direct the secretary to restore to the register the name of a person whose registration was cancelled in terms of section 20(1)(a), if a constituent body notifies the Council, in writing, that the person has become a member of the body or has had his or her membership restored.

## **PART IV**

### PRACTISING CERTIFICATES

## **22 Prohibition against practice by unregistered persons or without practising certificate**

- (1) Subject to section 34, no person shall practise as an engineer or technician, temporarily or otherwise, whether directly or indirectly, by himself or herself or in partnership or association with any other person, unless he or she
- (a) is registered as an engineer or technician and practises as such in accordance with the terms and conditions of a valid practising certificate issued in terms of this Act; or
  - (b) does engineering work under the supervision of a registered person for the purposes of training.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

## **23 Application for practising certificate**

A person who wishes to obtain a practising certificate shall apply to the Council in the form and manner prescribed, and shall submit with his or her application such fee, certificates, documents and information as may be prescribed.

## **24 Issue or refusal of practising certificate**

On receipt of an application for a practising certificate in terms of section 23, the Council shall issue a practising certificate to the applicant authorising him or her to practise as an engineer or technician if the Council is satisfied that the applicant—

- (a) is registered as an engineer or a technician, as the case may be; and
- (b) is a member in good standing of a constituent body;

and, if the Council is not so satisfied, it shall refuse to issue the practising certificate concerned and shall advise the applicant in writing accordingly.

## **25 Period of validity of practising certificate**

(1) Subject to this section, a practising certificate shall remain valid during the financial year in which it was issued, so long as its holder remains registered.

(2) No later than three months after the end of the financial year in which a practising certificate was issued, the holder, if still registered, shall apply for its renewal in respect of the next financial year, and a fee shall be payable therefor.

## **26 Terms and conditions of practising certificate**

(1) A practising certificate may be issued subject to such terms and conditions as may be prescribed or as the Council may determine after consultation with the constituent body of which the holder of the certificate is a member.

(2) Any terms and conditions determined in terms of subsection (1) shall be endorsed on the practising certificate concerned.

(3) If, following any disciplinary action against an engineer or a technician, conditions are imposed upon his or her entitlement to practise as an engineer or technician, he or she shall forthwith return any practising certificate held by him or her to the secretary, who shall endorse the conditions on the certificate.

(4) A practising certificate shall not authorise its holder to practise as an engineer or technician while his or her registration is suspended in terms of this Act.

### **27 Withdrawal of practising certificate**

If, after due inquiry, the Council is satisfied that an engineer or technician has not complied with any term or condition of a practising certificate held by him or her, the Council may withdraw the practising certificate, whether indefinitely or for a specified period, and if it does so, the secretary shall advise the engineer or technician accordingly.

### **28 Surrender of withdrawn or invalid practising certificate**

(1) Where a person has been advised in writing by the secretary that a practising certificate issued to him or her has been withdrawn or has ceased to be valid, he or she shall forthwith, and in any event within thirty days after being so advised, return the practising certificate to the secretary for destruction.

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

## **PART V**

### **DISCIPLINE**

### **29 Disciplinary proceedings**

Each constituent body shall be responsible for the professional conduct of its members who are registered persons and, for that purpose, each constituent body shall have power, in accordance with this Act, any other enactment or its constitution, as the case may be, to undertake disciplinary proceedings against such members and to punish them for breaches of the rules referred to in section 39(1)(b).

### **30 Review of disciplinary proceedings**

(1) Where a constituent body has found that a member who is a registered person has contravened any rule referred to in section 29, the constituent body shall make a report to the Council in writing within fourteen days, and shall provide the Council with such information regarding the case as the Council may reasonably require.

(2) Within thirty days after deciding on a disciplinary case, a constituent body shall submit a report on its findings to the Council and the Council shall forthwith review the decision of the constituent body.

(3) In a review under subsection (2), the Council may confirm, alter or set aside the decision of the constituent body concerned or refer the matter back to the constituent body for further consideration:

Provided that the Council shall not alter or set aside the decision unless it is satisfied that—

- (a) the constituent body concerned failed to follow any procedure which, by or under this Act, any other enactment or its constitution, it was required to follow in disciplinary proceedings; or
- (b) the constituent body concerned failed to observe the rules of natural justice, or
- (c) the decision of the constituent body concerned was unreasonable in all the circumstances of the case;

and that a substantial miscarriage of justice ensued.

### **31 Appeal to Council against disciplinary action**

(1) A registered person whose membership of a constituent body has been suspended or cancelled following disciplinary proceedings against him or her may appeal in writing to the Council, setting out clearly the grounds of his or her appeal within thirty days after being informed of his or her suspension or cancellation, or within such further period as the Council may allow.

(2) An appeal under subsection (1) shall be lodged in the form and manner prescribed.

(3) The Council shall forward a copy of any appeal lodged with it under subsection (1) to the constituent body concerned, and the constituent body shall, within thirty days or such longer period as the Council may permit, provide the Council with such number of copies of the record of the disciplinary proceedings as may be prescribed.

(4) After affording the appellant and the constituent body concerned a reasonable opportunity to make representations in the matter, the Council shall consider any appeal under this section and may confirm, alter or set aside the decision of the constituent body concerned or refer the matter back to the constituent body for further consideration.

(5) If the Council receives oral evidence in connection with an appeal under this section, it shall ensure that a record is kept of such evidence.

(6) If in an appeal under this section the Council confirms the suspension or cancellation of the appellant's registration, the Council may make an order requiring the appellant to pay the expenses of and incidental to the appeal, or any part of those expenses.

(7) The Council may recover from the appellant concerned any amount he or she has been ordered to pay under subsection (6) by proceedings against him or her in a court of competent jurisdiction.

## PART VI

### GENERAL

#### 32 Use of certain designations

(1) A registered engineer shall be entitled to use the designation "Professional Engineer (Zimbabwe)" or the initials "Pr. Eng."

(2) A registered technician shall be entitled to use the designation "Professional Engineering Technician (Zimbabwe)" or the initials "(Pr. Tech. Eng.)".

#### 33 Offences by unregistered persons and those employing them

(1) No person other than a registered engineer shall—

(a) hold himself or herself out to be a registered engineer; or

(b) use the designation or initials referred to in section 32(1) or any other name, title, description or letters indicating that he or she is a registered engineer, whether by advertisement or description or in any document.

(2) No person other than a registered technician shall—

(a) hold himself or herself out to be a registered technician; or

(b) use the designation or initials referred to in section 32(2) or any other name, title, description or letters indicating that he or she is a registered technician, whether by advertisement or description or in any document.

(3) Any person who contravenes subsections (1) or (2) or engages or knowingly accepts the services of a person who contravenes subsections (1) or (2), shall be guilty of an offence and liable to a fine not exceeding level eight or imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(4) A conviction for an offence under subsection (3) shall not preclude further prosecution or conviction if the offence continues or recurs.

#### 34 Exemptions

Notwithstanding anything to the contrary contained in section 22, it shall be lawful for anyone in the full time employment of—

(a) the State; or

(b) a municipal council, town council or local board established in terms of the Urban Councils Act [*Chapter 29:15*]; or

(c) a rural district council established in terms of the Rural District Councils Act [*Chapter 29:13*];

to carry out, in the normal course of their profession, the functions that are customarily performed by members of such a class or profession as is prescribed.

#### 35 Appeals from decisions of Council

(1) Any person who is aggrieved at any decision of the Council in terms of Part III, IV or V may, within thirty days after being advised of the decision, appeal to the High Court in such manner as may be prescribed in rules of court made in terms of the High Court Act [*Chapter 7:06*].

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

(a) confirm, vary or set aside the decision appealed against; or

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

and may make such other order, whether as to costs or otherwise, as it thinks just.

(3) The noting of an appeal in terms of subsection (1) against a decision of the Council under section 27 to withdraw a practising certificate shall not suspend the decision appealed against, unless—

(a) the Council, by written notice to the engineer or technician concerned, agrees otherwise; or

(b) the High Court on application directs otherwise;

in which event the Council shall return the practising certificate to the appellant pending the outcome of the appeal.

#### 36 Evidence

(1) The Register shall be *prima facie* proof of all matters directed or authorised by or under this Act to be noted therein.

(2) A certificate purporting to be signed by the secretary of the Council to the effect that—

- (a) the name of a person appears in any specified part of the Register, shall be *prima facie* proof that the person is a registered engineer or is a registered technician, as the case may be;
- (b) the name of a person has been deleted or removed from or does not appear in the Register or any specified part thereof, shall be *prima facie* proof that the person is not a registered engineer or technician;
- (c) a registered person has been suspended from practice for a specified period, shall be *prima facie* proof that he or she has been suspended for that period;
- (d) a registered person is or is not the holder of a practising certificate, shall be *prima facie* proof of that fact;
- (e) any terms or conditions were endorsed on any practising certificate, shall be *prima facie* proof of those terms or conditions.

(3) A certificate referred to in subsection (2) or a copy of an entry in the Register or of a document in the custody of the secretary, or an extract from the Register or any such document shall, if it purports to be certified by the secretary, be admitted in evidence in any court on its production by any person without further proof or production of the original.

### **37 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 engineers to perform the functions of the Council pending the first election of Council members; and
- (b) the functions, powers, duties and procedures of the committee referred to in paragraph (a); and
- (c) the fees and allowances payable from the funds of the Council or any constituent body to the members thereof.

### **38 By-laws of Council**

(1) Subject to subsection (3), the Council, may make by-laws prescribing anything which in terms of this Act is required to be prescribed by the Council or which, in the Council's opinion, is necessary or convenient to be prescribed by the Council for carrying out or giving effect to the provisions of this Act.

(2) By-laws made in terms of subsection (1) may provide for—

- (a) rules of professional conduct to be observed by registered persons;
- (b) fees which shall be payable in connection with registration, the issue of certificates and anything else done by the Council in terms of this Act;
- (c) the issue of duplicate or amended practising certificates;
- (d) the form of the Register and the circumstances in which it may be inspected by members of the public;
- (e) the levies payable by the constituent bodies to the Council;
- (f) applications for practising certificates and the form of such certificates;
- (g) the procedure for reviews by and appeals to the Council under Part V;
- (h) the minimum fees which shall be chargeable by a registered engineer for his or her professional services;
- (i) the procedure to be followed in the event of an appeal to the Council by any person whose membership of a constituent body has been refused, cancelled or suspended, and the fee, if any, payable to the Council for hearing such an appeal;
- (j) the following matters (until such time as a constituent body makes rules in terms of section 39(1)(c) and (d) governing these matters)—
  - (i) the examinations required to be passed or qualifications required to be obtained for registration as an engineer or technician in any particular engineering discipline;
  - (ii) the standard or level of engineering work in any particular engineering discipline for the performance of which a person requires to be registered as an engineer or technician.

(3) By-laws shall not be of any force and effect until they have been approved by the Minister and published in the *Gazette*.

### **39 Rules by constituent bodies**

(1) Subject to subsection (2), each constituent body may make rules in accordance with this Act, any other enactment or its constitution as the case may be, governing—

- (a) the admission to or cancellation or suspension of membership of the constituent body concerned;
- (b) the professional conduct to be observed by registered persons who are members of the constituent body concerned;

Provided that no rules made under this paragraph shall be inconsistent with by-laws made by the Council under section 38(2)(a);

- (c) the examinations required to be passed or qualifications required to be obtained for registration as an engineer or technician in the engineering discipline represented by that body;
- (d) the standard or level of engineering work in the engineering discipline represented by that body for the performance of which a person requires to be registered as an engineer or technician.

(2) Rules made in terms of this section shall be referred to the Council for onward transmission to the Minister as soon as possible after they are made, and shall and not be of any force and effect until they have been approved by the Minister on the recommendation of the Council and published in the *Gazette*.

#### **40 Amendment of First Schedule**

On the recommendation of the Council, the Minister may by statutory instrument amend the First Schedule by adding, deleting or substituting any engineering discipline therein.

#### **41 Transitional provisions and savings**

(1) In this section

“fixed date” means the date on which this Act comes into effect.

(2) Notwithstanding anything to the contrary in Part II, the first members appointed to the Council shall be registered persons or persons who are deemed to be registered in terms of subsection (5).

(3) Every person who on the fixed date is a member of a constituent body shall be entered in the appropriate part of the Register in terms of subsection (4).

(4) The secretary to the Council shall, in accordance with section 19, enter in the appropriate part of the Register the names of all persons who, on the fixed date, are entitled in terms of subsection (3) to be registered, and shall issue to each such person a practising certificate upon payment of an a fee provisionally fixed by the Council.

(5) Notwithstanding anything to the contrary in Part III, every person who, on the fixed date is not a member of a constituent body but is qualified for registration as an engineer or technician shall be deemed to be registered for a period of six months.

(6) Notwithstanding anything to the contrary in Part IV, a person who is deemed in terms of subsection (5) to be registered may practise as an engineer or technician, as the case may be, for a period of six months after the fixed date, and thereafter, unless or such person has earlier become a member of a constituent body and obtained registration under Part III, section 22 shall apply to such to person:

Provided that the Council may, by notice in the *Gazette*, extend the period of deemed registration for the purposes of subsection (5) and this subsection by a further period not exceeding twelve months.

(7) Any regulations which were made in terms of section 16 of the Zimbabwe Institution of Engineers (Private) Act [*Chapter 27:16*] and which are in force immediately before the fixed date shall continue in force after that date as if they are rules made in terms of section 39.

### **PART VII**

#### AMENDMENT OF CAP. 27:16

#### **43 Amendment of Cap. 27:16**

The Zimbabwe Institution of Engineers (Private) Act [*Chapter 27:16*] is amended—

(a) in section 2 (“Interpretation”)—

(i) by the repeal of the definition of “Council” and the substitution of—  
““Board” means the Board of the Institution;”;

(ii) by the insertion of the following definition—

““Council” means the Engineering Council established in terms of the Engineering Council Act [*Chapter 27:22*] (No. 3 of 2008);”;

(b) in section 4 (“Objects”) by the deletion from paragraph (c) of “approve of” and the substitution of “recommend”;

(c) in section 7 (“Register of members”) by the deletion of “Council” and the substitution of “Board”;

(d) by the repeal of section 8;

(e) in section 9 (“Management and control”) by the deletion of “Council” and the substitution of “Board”;

(f) in section 10 (“Limitation of liability”) by the deletion of “Council” and the substitution of “Board”;

(g) in section 11 (“Seal”) by the deletion of “Council” wherever it occurs and the substitution of “Board”;

(h) in section 12 (“Removal from Register on non-payment of fees”) by the deletion of “Council” wherever it occurs and the substitution of “Board”;

- (i) by the repeal of sections 13 and 14;
- (j) in section 16 (“Regulations”)(1)—
  - (i) by the deletion of “regulations”, “Regulations” or “regulation” wherever it occurs and the substitution of “rules”, “Rules” or “rule” respectively;
  - (ii) by the deletion of “Council” in the introductory words thereto and the substitution of “Board”;
  - (iii) in paragraph (d) by the deletion of “Council” wherever it occurs and the substitution of “Board”;
  - (iv) in paragraph (e) by the deletion of “Council” and the substitution of “Board”;
  - (v) in paragraph (k) by the deletion of “Council’s” and the substitution of “Board’s”;
  - (vi) in paragraph (k) by the deletion of “Council” and the substitution of “Board”.

## **FIRST SCHEDULE (Section 2)**

### **ENGINEERING DISCIPLINES**

- Aeronautical Engineering**—the branch of engineering science concerned with the design and construction of aircraft. Practitioners may be registered as Aeronautical Engineering Professionals or Aeronautical Engineering Technicians.
- Agricultural engineering**—the branch of engineering that deals with the construction and design agricultural machinery and equipment and agricultural structures. Practitioners may be registered as Agricultural Engineering Professionals or Agricultural Engineering Technicians.
- Architectural engineering**—the branch of engineering that deals with the construction of buildings (as distinguished from architecture as a design art). Practitioners may be registered as Architectural Engineering Professionals or Architectural Engineering Technicians.
- Civil engineering**—the branch of engineering concerned with the design and construction of such public works as dams or bridges. Practitioners may be registered as Civil Engineering Professionals or Civil Engineering Technicians.
- Chemical engineering**—the branch of engineering that is concerned with the design and construction and operation of the plants and machinery used in industrial chemical processes. Practitioners may be registered as Chemical Engineering Professionals or Chemical Engineering Technicians.
- Computer science and computing engineering**—the branch of engineering science that studies (with the aid of computers) computable processes and structures. Practitioners may be registered as Computer Science Professionals, Computing Engineering Professionals, Computer Science Technicians or Computing Engineering Technicians.
- Electrical engineering and electronic engineering**—the branch of engineering science that studies the uses of electricity and the equipment for power generation and distribution and the control of machines and communication. Practitioners may be registered as Electrical Engineering Professionals, Electronic Engineering Professionals, Electrical Engineering Technicians or Electronic Engineering Technicians.
- Industrial and manufacturing engineering**—the branch of engineering that deals with the creation and management of systems that integrate people and materials and energy in productive ways. Practitioners may be registered as Industrial and Manufacturing Engineering Professionals or Industrial and Manufacturing Engineering Technicians.
- Mechanical engineering**—the branch of engineering that deals with the design and construction and operation of machinery. Practitioners may be registered as Mechanical Engineering Professionals or Mechanical Engineering Technicians.
- Metallurgical engineering**—the branch of engineering that deals with corrosion mechanisms within industrial metals and alloys and their electrochemical, physical and mechanical properties. Practitioners may be registered as Metallurgical Engineering Professionals or Metallurgical Engineering Technicians.
- Mining engineering**—the branch of engineering that deals with the design and construction and operation of mines. Practitioners may be registered as Mining Engineering Professionals or Mining Engineering Technicians.
- Nanotechnology engineering**—the branch of engineering that deals with things smaller than 100 nanometers (especially with the manipulation of individual molecules). Practitioners may be registered as Nanotechnology Engineering Professionals or Nanotechnology Engineering Technicians.

**Naval engineering**—the branch of engineering that deals with the design and construction of boats and ships. Practitioners may be registered as Naval Engineering Professionals or Naval Engineering Technicians.

**Nuclear engineering**—the branch of engineering concerned with the design and construction and operation of nuclear reactors. Practitioners may be registered as Nuclear Engineering Professionals or Nuclear Engineering Technicians.

## **SECOND SCHEDULE (Section 5(2))**

### **POWERS OF COUNCIL**

1. To purchase, hire or otherwise acquire immovable property and to construct buildings thereon.
2. To buy, take in exchange, hire or otherwise acquire movable property necessary or convenient for the exercise of the Council's functions.
3. To maintain, alter or improve its property.
4. To sell, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with any property which is not required for the Council's purposes, for such consideration, if any, as the Council may determine.
5. To raise or borrow money in such manner as the Council thinks fit for its operation.
6. To invest, in such manner and on such security, if any, as the Council may determine, any of its funds which are not immediately required and to vary or realise any investments so made.
7. To insure against losses, damages, risks and liabilities which the Council may incur.
8. To fix the conditions of service of its employees appointed under section 8, to pay them such remuneration and allowances and grant them such leave of absence and to make them such gifts, bonuses and the like as the Council thinks fit and, where the Council considers it appropriate, to suspend or discharge them.
9. To provide benefits for its employees and their dependants on the employees' retirement, resignation, discharge or other termination of service or in the event of their sickness or injury, and for that purpose to effect policies of insurance, establish pension or provident funds or make such other provision as the Council considers necessary to secure for its employees and their dependants the benefits referred to in this paragraph in accordance with current labour legislation.
10. Generally, to do all things that are calculated to facilitate or are incidental or conducive to the performance of the Council's functions under this Act or any other enactment.

## **THIRD SCHEDULE (Section 6(6))**

### **PROVISIONS APPLICABLE TO COUNCIL**

#### ***1. Qualifications for membership of Council***

(1) Subject to subparagraphs (2) and (3) and section 6(1)(d), a person shall be qualified for appointment to the Council if he or she is a member of a constituent body and is registered in terms of this Act.

(2) A person shall not be appointed as a member, and no person shall be qualified to hold office as a member, if—

- (a) he or she has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or
- (b) he or she has made an assignment to or arrangement or composition with his or her creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or
- (c) in the case of a member who is a registered person, the disciplinary authority of a constituent body, following disciplinary proceedings, has—
  - (i) directed that his or her membership of that constituent body be cancelled; or
  - (ii) ordered his or her suspension from membership of that constituent body; and his or her membership of the constituent body has not been restored or the period of his or her suspension has not elapsed, as the case may be; or
- (d) his or her registration is cancelled or he or she is suspended from practice following disciplinary action in terms of this Act.

(3) All members of the Council shall be citizens of Zimbabwe.

#### ***2. Terms and conditions of office of members***

(1) Unless they vacate their office earlier, members shall hold office for a period of two years from the dates of their appointment.

(2) On the expiry of the period for which a member has been appointed, he or she shall continue to hold office until he or she has been re-appointed or his or her successor has been appointed:

Provided that a member shall not hold office in terms of this subparagraph for a period exceeding six months.

(3) A member who resigns or retires shall be eligible for reappointment to the Council, but no person may serve as a member for more than two successive terms.

(4) Members shall hold office on such terms and conditions, including terms and conditions relating to remuneration and the payment of allowances, as the Council, with the approval of the Minister, may fix.

### **3. Vacation of office by members**

(1) A member shall vacate his or her office and his or her office shall become vacant—

(a) after giving the secretary and the Minister such period of notice of intention to resign as may be fixed in his or her terms and conditions of service or, if no such period has been fixed, one month after the date on which he or she gives such notice, or after the expiry of such other period of notice as he or she and the Council may agree; or

(b) on the date he or she begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine in any country; or

(c) if he or she becomes disqualified in terms of paragraph to hold office as a member; or

(d) in the case of a member who is a registered person, if his or her registration is cancelled in terms of paragraph 1(d); or

(e) if he or she is required in terms of subparagraph (2) to vacate his or her office.

(2) The Council, with the approval of the Minister, may require a member to vacate his or her office if the member—

(a) has been guilty of conduct which renders him or her unsuitable to continue to hold office as a member; or

(b) has failed to comply with any term or condition of his or her office fixed in terms of paragraph 2(4); or

(c) is mentally or physically incapable of efficiently exercising his or her functions as a member; or

(d) has been absent without the permission of the Council from three consecutive meetings of the Council, of which he or she has had notice, and the Council is satisfied that there was no just cause for the member's absence.

(3) On the death of, or the vacation of office by, a member, the Council shall, subject to section 6(2), invite the constituent body that nominated him or her to nominate a qualified person to fill the vacancy for the unexpired period of the member's term of office:

Provided that if the unexpired period of the member's term of office is less than six months, the constituent body need not fill the vacancy until the period has expired.

### **4. Meetings and procedure of Council**

(1) Subject to this paragraph, the Council shall meet at such places and times for the dispatch of its business, and adjourn, close and otherwise regulate its meetings and procedure, as it thinks fit:

Provided that the Council shall meet at least four times in each financial year.

(2) Meetings of the Council shall be convened by the secretary who shall ensure that at least seven days' notice of any meeting is given to each member:

Provided that the unintentional failure to give such notice to any member shall not invalidate the proceedings of the meeting concerned.

(3) The secretary may himself or herself at any time, and shall, at the written request of not fewer than four members, convene a special meeting of the Council, which meeting shall be convened on a date not sooner than seven days and not later than twenty-one days after receipt of such request.

(4) If the secretary is for any reason unable to exercise his or her functions in terms of subparagraph (2) or (3), the chairperson shall exercise them.

(5) The chairperson or, in his or her absence, the vice-chairperson, shall preside at meetings of the Council:

Provided that if the chairperson and vice-chairperson are both absent from any meeting, the members present may elect one of their number to preside at the meeting as chairperson.

(6) A majority of members shall form a quorum at any meeting of the Council.

(7) All acts, matters or things authorised or required to be done by the Council may be decided by a majority vote at a meeting of the Council at which a quorum is present.

(8) At all meetings of the Council, each member present shall have one vote on each question before the Council:

Provided that, in the event of an equality of votes, the chairperson or person presiding shall have a casting vote in addition to a deliberative vote.

(9) Any proposal circulated among all members and agreed to by a majority of them shall be of the same effect as a resolution passed at a duly constituted meeting of the Council.

#### **5. Committees**

(1) For the better exercise of its functions, the Council may establish committees in which may be vested and on which may be imposed such of the functions of the Council as the Council may direct:

Provided that the Council shall not be prevented from exercising any of its functions vested in the committees and may amend or withdraw any decision, of a committee in the exercise of its vested functions.

(2) The Council may appoint registered persons who are not members of the Council to be members of any committee established under subparagraph (1), on such terms and conditions as the Council may fix.

(3) The procedure of any committee of the Council shall be as fixed by the Council.

(4) The Council shall fix the quorum of any committee of the Council.

(5) Paragraph 4 shall apply with such changes as may be necessary to committees and their members.

#### **6. Minutes of proceedings of Council and committees**

(1) The Council shall cause minutes of all proceedings and decisions taken at all meetings of the Council and of its committees to be entered in books kept for the purpose.

(2) Any minutes referred to in subparagraph (1) which purport to be signed by the chairperson of the meeting to which the minutes relate or by the chairperson of the next following meeting of the Council or of the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.