

THE CONSTRUCTION INDUSTRY DEVELOPMENT BOARD (AMENDMENT) BILL
(No. XXXII of 2016)

Explanatory Memorandum

The main object of this Bill is to amend the Construction Industry Development Board Act so as to streamline and clarify some provisions of the Act.

N. BODHA, G.C.S.K.
*Minister of Public Infrastructure
and Land Transport*

09 December 2016

THE CONSTRUCTION INDUSTRY DEVELOPMENT BOARD (AMENDMENT) BILL
(No. XXXII of 2016)

ARRANGEMENT OF CLAUSES

Clause

- | | |
|--|---|
| 1. Short title | 10. New section 21A inserted in principal Act |
| 2. Interpretation | 11. Section 22 of principal Act amended |
| 3. Section 2 of principal Act amended | 12. Section 24 of principal Act amended |
| 4. Section 3 of principal Act amended | 13. Section 25 of principal Act amended |
| 5. Section 6 of principal Act amended | 14. Second and Third Schedules to principal Act repealed and replaced |
| 6. Section 18 of principal Act amended | 15. Commencement |
| 7. Section 19 of principal Act amended | FIRST SCHEDULE |
| 8. Section 20 of principal Act amended | SECOND SCHEDULE |
| 9. Section 21 of principal Act repealed and replaced | |
-

A BILL

To amend the Construction Industry Development Board Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Construction Industry Development Board (Amendment) Act 2016.

2. Interpretation

In this Act –

“principal Act” means the Construction Industry Development Board Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended, in subsection (1) –

(a) by deleting the definition of “construction works” and replacing it by the following definition –

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

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

- (e) altering, repairing, restoring, maintaining, extending, dismantling, demolishing or removing any thing to a building or structure or any fittings as described in paragraph (d);
 - (f) civil works;
 - (g) any work that is preparatory to, or necessary for the completion of, any work referred to in paragraphs (a) to (e), including –
 - (i) site or earth works, excavating, earthmoving, tunneling or boring;
 - (ii) laying foundations;
 - (iii) erecting, maintaining or dismantling temporary works, a temporary building or temporary structure, including a crane or other lifting equipment, and scaffolding;
 - (iv) cleaning, painting, decorating or treating any surface; and
 - (v) site restoration and landscaping;
 - (h) such other works as may be prescribed;
- (b) by deleting the definition of “consultancy services” and replacing it by the following definition –
- “consultancy services” –
- (a) means all aspects of architectural, engineering, quantity surveying, project management and any other services related to construction works; and
 - (b) includes services related to such other fields of specialisation as may be prescribed;
- (c) by inserting, in the appropriate alphabetical order, the following new definitions –
- “civil works” includes any works relating to –
- (a) a road, a railway, a tramway, an aircraft runway, a canal, a waterway, a harbour, a port or a marina;

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

“construction services” includes –

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

4. Section 3 of principal Act amended

Section 3 of the principal Act is amended by adding the following new paragraph, the full stop at the end of paragraph (b) being deleted and replaced by a semicolon –

- (c) a foreign consultant or foreign contractor that provides consultancy services or undertakes construction works, as the case may be, in relation to a project under an agreement or arrangement between Mauritius and a foreign State.

5. Section 6 of principal Act amended

Section 6 of the principal Act is amended –

- (a) in paragraph (b), by adding the words “, and suppliers of construction materials, equipment, plant and labour for construction purposes;
- (b) by inserting, after paragraph (b), the following new paragraph –
 - (ba) register such construction projects as may be prescribed;
- (c) by inserting, after paragraph (n), the following new paragraph, the word “and” at the end of paragraph (n) being deleted –
 - (na) register providers of dispute resolution services in the construction industry; and

6. Section 18 of principal Act amended

Section 18 of the principal Act is amended, in subsection (1), in paragraph (a), by inserting, after the words “grades and”, the words “field or”.

7. Section 19 of principal Act amended

Section 19 of the principal Act is amended –

- (a) in subsection (1), by deleting the word “No” and replacing it by the words “Subject to section 19A, no”;
- (b) in subsection (2), by deleting the words “as may be approved by the Council and in such manner as may be prescribed” and replacing them by the words “and manner as the Council may approve”;
- (c) in subsection (4), by repealing paragraph (c) and replacing it by the following paragraph –
 - (c) whether he has the necessary resources to undertake construction works and services corresponding to the classes, grades, fields or areas of registration applied for, as the case may be; and
- (d) in subsection (6) –
 - (i) in paragraph (a) –
 - (A) by deleting the word “or” at the end of subparagraph (i);
 - (B) by adding the following new subparagraph, the comma at the end of subparagraph (ii) being deleted and replaced by the words “; or” –
 - (iii) any limitation to construction works the contractor is subject to,
 - (ii) by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) on payment of such fee as may be prescribed, issue a certificate of

registration to the applicant on such other terms and conditions as it may determine;

- (e) in subsection (7), in paragraph (b)(ii), by deleting the words “specialisation,” and replacing them by the words “specialisation, as the case may be,”;
- (f) by adding the following new subsection –

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

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

8. Section 20 of principal Act amended

Section 20 of the principal Act is amended –

- (a) in subsection (2), in paragraph (a) –
 - (i) by repealing subparagraph (i) and replacing it by the following subparagraph –
 - (i) before bidding for the project, apply, subject to subsection (5), for provisional registration in such form and manner as the Council may approve; or
 - (ii) in subparagraph (ii), by deleting the words “as may be approved by the Council and in such manner as may be prescribed” and replacing them by the words “and manner as the Council may approve”;
- (b) in subsection (4), in paragraph (a), by deleting the words “lapse where a contract is awarded” and replacing them by the words “be valid for a period of one year”;
- (c) by adding the following new subsections –

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

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

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

(i) foreign consultant –

(A) who has been providing consultancy services in the construction industry during the 10 years preceding the coming into operation of this subsection; and

(B) where at least two thirds, or such other percentage as may be prescribed, of the total number of its employees are citizens of Mauritius; or

(ii) foreign contractor –

(A) who has been carrying construction works in the construction industry during the 20 years preceding the coming into operation of this subsection; and

(B) where at least two-thirds, or such other percentage as may be prescribed, of the total number of its or his employees are as citizens of Mauritius.

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

9. Section 21 of principal Act repealed and replaced

Section 21 of the principal Act is repealed and replaced by the following section –

21. Duration and renewal of registration

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

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

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

10. New section 21A inserted in principal Act

The principal Act is amended by inserting, after section 21, the following new section –

21A. Submission of bidding documents

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

11. Section 22 of principal Act amended

Section 22 of the principal Act is amended, in subsection (1), by inserting, after the words “he shall”, the words “, in addition to the renewal fee,”.

12. Section 24 of principal Act amended

Section 24 of the principal Act is amended, in subsection (2), by deleting the words “, suspension or any change in particulars,” and replacing them by the words “or suspension”.

13. Section 25 of principal Act amended

Section 25 of the principal Act is amended by inserting, after subsection (1), the following new subsection –

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

14. Second and Third Schedules to principal Act repealed and replaced

The Second and Third Schedules to the principal Act are repealed and replaced by the Second and Third Schedules set out in the First and Second Schedules to this Act, respectively.

15. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

FIRST SCHEDULE

[Section 14]

SECOND SCHEDULE

[Section 19]

PART A – FIELDS OF SPECIALISATION OF CONSULTANTS

Architecture

Civil engineering

Mechanical, electrical and plumbing (MEP) services

Project management in construction

Quantity surveying

PART B – CLASSES OF WORKS OF CONTRACTORS

Building construction works

Civil engineering construction works

Mechanical, electrical and plumbing works

PART C – GRADES OF CONTRACTORS

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

SECOND SCHEDULE

[Section 14]

THIRD SCHEDULE

[Section 19]

AREAS OF SPECIALISATION OF CONTRACTORS

PART I – BUILDING CONSTRUCTION WORKS

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

PART II – CIVIL ENGINEERING CONSTRUCTION WORKS

Reference	Areas of specialisation	Description
CE 01	Marine structure, offshore and underwater construction	Construction of marine structure including jetty, port, wharf, harbour, sea and river wall and out wall, offshore and underwater construction works
CE 02	Tunneling and underpinning	Tunneling and underpinning works
CE 03	Dredging and reclamation works	Dredging in canal, river and offshore works

CE 04	Railway track	Installation of railway track, destressing of rail, and track railway signaling
CE 05	Oil and gas pipeline	Installation, maintenance and repair of oil and gas pipeline
CE 06	Pipe laying, water storage and supply and sewerage works	Construction of dam, reservoir, aquaduct, treatment plant, network pipe laying and sewerage works

PART III – MECHANICAL, ELECTRICAL AND PLUMBING WORKS

Reference	Areas of specialisation	Description
M 01	Medical equipment	Installation, testing, commissioning, maintenance and repairs of medical equipment including, compressed air system, hot water installation, steriliser and autoclave, medical gas installation, hydrotherapy system, dental chair and mortuary refrigerator
M 02	Drilling rig	Erection, testing, commissioning, maintenance and repairs of offshore rig (Jack-up tender assisted, drill ship, self-contained/platform rig, semi-submersible) onshore rig, conventional workover rig and swamp barge
E 01	Building automation system, energy generation system and building management and maintenance system	<p>Building automation control systems, industrial and process control systems including installation, testing, commissioning, maintenance and repairs of microprocessors or computer based building control system and industrial process control system</p> <p>Installation, testing, commissioning, maintenance and repairs of energy generation systems</p>

E 02	Miscellaneous specialisation	Installation, testing, commissioning, maintenance and repairs of surgical/operating theatre table and lights, radiography equipment, nurse call system, electronic scoreboard, uninterruptible power supply (UPS) system, passenger boarding bridges, baggage handling systems, instrument landing systems, visual aids and other airport related equipment and systems
------	------------------------------	---
