

THE PROFESSIONAL ARCHITECTS' COUNCIL BILL
(No. V of 2011)

Explanatory Memorandum

The object of this Bill is to provide for the establishment of a new Professional Architects' Council. A modern and appropriate legislative framework has been rendered necessary by a number of factors, including a large increase in the number of professional architects, the growth of the construction sector and globalisation. The Bill further aims at better serving the profession.

2. The Council will, in the performance of its functions and exercise of its powers –

- (a) register professional architects;
- (b) authorise foreign architects, subject to certain conditions, to practise architecture in Mauritius;
- (c) enrol trainee and student architects;
- (d) ensure that the Code of Practice is complied with by architects;
- (e) exercise and maintain discipline in the profession, with the assistance and support of such Professional Conduct Committee as may be set up;
- (f) be responsible for the institution of disciplinary proceedings against an architect and the taking of disciplinary measures;
- (g) be responsible for the dissemination of literature, in connection with new construction techniques, technology and materials, to architects;
- (h) be responsible for the improvement of knowledge in the field of architecture by means of Continuous Professional Development programmes;

- (i) be responsible for the advancement of architecture.

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08 April 2011

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(No. V of 2011)

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A BILL

To establish the Professional Architects' Council and to provide for the practice and discipline of architects

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Professional Architects' Council Act 2011.

2. Interpretation

In this Act –

“architect” means –

- (a) a professional architect; or
- (b) an authorised foreign architect;

“architectural partnership” means a partnership between 2 or more professional architects;

“authorised foreign architect” means –

- (a) a foreign architect authorised by the Council to practise architecture in Mauritius under section 25, 26 or 27;
- (b) a foreign architect engaged in relation to the construction of a Government building;

“building” means a building, an erection or any other structure erected or made on, in or under any land;

“Chairperson” means the Chairperson of the Council;

“Code of Practice” means such Code of Practice as may be prescribed;

“committee” means a committee set up under section 10;

“competent authority” means the authority authorising a person to practise architecture;

“construction” includes extension, conservation, restoration, repairs or any other alteration;

“Continuous Professional Development programmes” means programmes, courses, lectures, seminars or conferences in relation to new construction techniques, materials and methods of management, or changes in construction law, building regulations and building standards, or any other matter related to the profession;

“Council” means the Professional Architects’ Council established under section 3;

“delegated power” means the powers delegated, under section 89(2)(b)(i) of the Constitution and subject to Part IVA of the Public Service Commission Regulations, to the Council by the Public Service Commission to enquire and report into any complaint of professional misconduct or negligence against a professional architect appointed by the Public Service Commission;

“financial year” has the same meaning as in section 2A of the Finance and Audit Act;

“firm of architects” means a firm, body, group, company or architectural partnership which practises architecture in Mauritius and is under the control and management of a professional architect;

“foreign architect” –

- (a) means a non-citizen authorised by the competent authority in his country to practise architecture;
- (b) includes a firm of architects registered in another country; and
- (c) does not include a non-citizen who is a resident in Mauritius and is registered as a professional architect;

“Government company” means a company registered under the Companies Act and in which the Government of Mauritius directly or, through another corporate body, owns or controls not less than 50 per cent of the entire share capital;

“joint venture agreement” means an agreement between a professional architect or a firm of architects, and a foreign architect;

“joint venture partner” means a professional architect or firm of architects with whom a foreign architect has entered into a joint venture agreement;

“law practitioner” has the same meaning as in the Law Practitioners Act;

“licensed auditor” has the same meaning as in the Financial Reporting Act;

“member” means a member of the Council;

“Minister” means the Minister to whom responsibility for the subject of public infrastructure is assigned;

“officer” –

- (a) means an officer appointed under section 14; and
- (b) includes the Registrar;

“practise architecture” means provide architectural services in connection with the planning, design or supervision of the construction of a building;

“preliminary investigation” means an investigation under section 28;

“professional architect” means a person registered as such under section 19;

“Professional Conduct Committee” means a Professional Conduct Committee set up under section 30;

“Registrar” means the Registrar of the Council appointed under section 12;

“Registration Board” means the Registration Board set up under section 9;

“resident” has the same meaning as in the Immigration Act;

“student architect” means a person enrolled as such under section 23;

“supervising officer” means the supervising officer of the Ministry;

“trainee architect” means a person enrolled as such under section 23;

“Vice-Chairperson” means Vice-Chairperson of the Council.

PART II – THE COUNCIL

3. Establishment of Council

(1) There is established, for the purposes of this Act, the Professional Architects’ Council.

(2) The Council shall be a body corporate.

(3) The principal place of business of the Council shall be at such place as it may determine.

4. Objects and functions of Council

The Council shall –

- (a) regulate and control the practice of architecture;
- (b) be responsible for registering professional architects;
- (c) be responsible for authorising foreign architects to practise architecture in Mauritius;
- (d) exercise and maintain discipline in the profession –
 - (i) in relation to a professional architect who is appointed by the Public Service Commission, in respect of whom the Council holds a delegated power, to the extent and within the limits of that delegation of power; and
 - (ii) in relation to any other architect;
- (e) ensure that the Code of Practice is complied with by architects;
- (f) disseminate literature, in connection with new construction techniques, technology and materials, or any other related matter, to architects;
- (g) provide technical assistance to architects;
- (h) co-operate with any other institution having objects wholly or partly similar to those of the Council;
- (i) organise or cause to be organised Continuous Professional Development programmes or any other programmes, courses, lectures, seminars or conferences for the purposes of professional assessment of professional architects;
- (j) publish an annual list of professional architects;
- (k) keep a record of its proceedings and decisions;
- (l) enrol trainee and student architects;
- (m) promote the advancement of architecture;
- (n) advise the Minister on any matter relating to the profession.

5. Powers of Council

The Council shall have such powers as may be necessary to discharge its functions most effectively and may, in particular –

- (a) register, suspend or deregister professional architects;
- (b) authorise foreign architects to practise architecture in Mauritius;
- (c) approve and register joint venture agreements;
- (d) enter into any contract;
- (e) set up any committee;
- (f) sell or exchange any property;
- (g) subject to section 39, make or receive any grant or donation;
- (h) borrow money and raise funds;
- (i) collect or receive any fee, rental, interest or any other sum which may lawfully accrue to it;
- (j) generally do such acts and things as may be necessary for the purposes of this Act.

PART III – MANAGEMENT OF COUNCIL

6. Composition of Council

- (1) The Council shall consist of –
 - (a) 3 professional architects posted at the Ministry, to be appointed by the Minister;
 - (b) 3 professional architects, to be elected in the manner specified in the Schedule;
 - (c) one professional architect from the Mauritius Association of Architects;
 - (d) a representative of the Ministry; and

(e) a representative of the Attorney-General's Office.

(2) The Council shall elect a Chairperson and a Vice-Chairperson from among its members referred to in subsection (1)(a), (b) and (c).

(3) A member, other than an ex officio member, shall hold office for a period of 2 years and shall be eligible for reappointment or re-election, as the case may be.

(4) The Minister shall cause the composition of the Council to be published in the *Gazette*.

(5) Every member shall be paid such fees or allowances as the Council may determine.

7. Vacancy in membership of Council

(1) A member, other than an ex officio member, shall cease to hold office –

- (a) on completion of his term of office; or
- (b) on his resignation, by giving notice in writing to the Registrar.

(2) Where a member resigns under subsection (1)(b), his seat shall become vacant as from the date on which the Registrar receives the notice.

(3) The Council may remove from office any member, other than an ex officio member, who –

- (a) is absent, without leave of the Council, from 3 consecutive meetings of the Council;
- (b) becomes insolvent, assigns his estate for the benefit of his creditors or makes an arrangement with his creditors;
- (c) commits an act of misconduct, malpractice, negligence, fraud or dishonesty, or a breach of the Code of Practice, which, in the opinion of the Council, renders him unfit to be a member;
- (d) is convicted of an offence of such nature which, in the opinion of the Council, renders him unfit to be a member;

- (e) is deregistered as a professional architect under this Act;
- (f) is suffering from such mental or physical impairment which, in the opinion of the Council, renders him unfit to be a member; or
- (g) fails to disclose any pecuniary or other material interest which he has in relation to any matter before the Council.

(4) The Council may suspend from office, for such time as it may determine, any member who is –

- (a) liable to be removed from office under subsection (3);
- (b) guilty of a breach of the Code of Practice; or
- (c) the subject of an investigation.

(5) Where a vacancy occurs in the membership of the Council, the vacancy shall be filled by a person appointed by the Minister, who shall hold office for the remainder of the term of office of that member.

8. Meetings of Council

(1) The Council shall meet as often as is necessary but at least once every 2 months.

(2) A meeting of the Council shall be held at such time and place as the Chairperson thinks fit.

(3) At a meeting of the Council, 5 members shall constitute a quorum.

(4) (a) The Chairperson or, in the absence of the Chairperson, the Vice-Chairperson shall preside at a meeting of the Council.

(b) Where the Chairperson and the Vice-Chairperson are absent from a meeting of the Council, the members present shall elect one of the professional architects referred to in section 6(1)(a) and (b) to chair the meeting.

(5) (a) A special meeting of the Council –

- (i) may be convened by the Chairperson at any time;
or
- (ii) shall be convened by the Registrar within 7 days of the receipt of a request in writing signed by not less than 5 members.

(b) The request made under subsection (5)(a)(ii) shall specify the purpose for which the special meeting is to be convened.

(6) The Council shall regulate its meetings and proceedings in such manner as it may determine.

9. Registration Board

(1) The Council shall set up a Registration Board to assist it in the determination of applications for registration as a professional architect.

(2) The Registration Board shall consist of –

- (a) a chairperson; and
- (b) 2 assessors,

to be appointed, subject to subsection (3), by the Council on such terms and conditions as it may determine.

(3) The chairperson and the 2 assessors referred to in subsection (2) shall be professional architects –

- (a) of at least 15 years' experience as professional architects; and
- (b) of good character and who have not been convicted of an offence involving fraud or dishonesty in any country.

10. Committees

(1) The Council may set up such committees as may be necessary to assist it in the discharge of its functions, including the conduct of a preliminary investigation.

(2) A committee shall consist of not less than 3 members of the Council and such other persons who may be co-opted by the Council.

- (3) A committee shall –
- (a) meet as often as is necessary and at such time and place as the chairperson of the committee thinks fit;
 - (b) meet as and when required by the Council;
 - (c) regulate its meetings and proceedings in such manner as it may determine.

(4) A committee shall submit its report within such time as the Council may determine.

(5) The report referred to in subsection (4) shall contain the committee's observations, comments, recommendations or findings, if any, on any matter referred to it.

11. Disclosure of interest

(1) Where any member, or any person related to him by blood or marriage, has a pecuniary or other material interest in relation to any matter before a meeting of the Council, the Registration Board or a committee, that member –

- (a) shall disclose the nature of the interest before or at the meeting of the Council, the Registration Board or the committee convened to discuss that matter; and
- (b) shall not take part in any deliberations of the meeting of the Council, the Registration Board or the committee relating to that matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of proceedings of the meeting of the Council, the Registration Board or the committee.

12. Registrar

(1) The Council shall appoint, on such terms and conditions as it may determine, a professional architect to act as Registrar of the Council.

(2) The Registrar shall be responsible for the proper administration of the Council.

- (3) The Registrar shall act as the Secretary to the Council and –
- (a) shall give notice of every meeting of the Council to the members;
 - (b) shall prepare and attend every meeting of the Council;
 - (c) shall keep minutes of proceedings of any meeting of the Council; and
 - (d) may take part in the deliberations of a meeting of the Council, but shall not have the right to vote.
- (4) The Registrar may also act as the Treasurer to the Council.
- (5) The Registrar shall have such other functions as may be conferred upon him by the Council.
- (6) Where the Registrar is for any reason unable to perform his functions, the Council may appoint another professional architect to act as Registrar.

13. Delegation

- (1) The Council may, subject to such instructions as it may give, delegate to the Registrar such of its functions and powers as may be necessary for the effective management of the day-to-day business and activities of the Council, other than the power to –
- (a) sell or exchange any property;
 - (b) make or receive any grant or donation;
 - (c) borrow money and raise funds.

(2) The Registrar may, with the approval of the Council, delegate his functions and powers to such officer as he may designate.

14. Appointment of officers

(1) The Council may appoint, on such terms and conditions as it may determine, such officers as it considers necessary for the proper discharge of its functions under this Act.

(2) Every officer shall be under the administrative control of the Registrar.

15. Conditions of service of officers

The Council may make provision to govern the conditions of service of its officers and, in particular, to deal with –

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given to, officers;
- (b) appeals by officers against dismissal and any other disciplinary measure.

16. Protection from liability

No liability, civil or criminal, shall be incurred by the Council, any member or officer, in respect of any act done or omitted by it or him in good faith in the discharge of its or his functions, or exercise of its or his powers, under this Act or any regulations made under it.

17. Powers of Minister

(1) The Minister may give such directions of a general character to the Council, not inconsistent with this Act, as he considers necessary in the public interest, and the Council shall comply with those directions.

(2) The Minister may require the Council to furnish any information or document in relation to its activities and the Council shall supply such information or document.

PART IV – PROFESSIONAL ARCHITECT, TRAINEE ARCHITECT AND STUDENT ARCHITECT

18. Practice of architecture

- (1) No person shall practise architecture in Mauritius unless he is –
 - (a) a professional architect; or
 - (b) an authorised foreign architect.
- (2) Nothing in this Act shall prevent a person –

- (a) from practising his profession, trade or calling as an engineer, land surveyor, quantity surveyor, interior decorator or designer, town planner, naval architect, marine architect or landscape architect;
- (b) for the purpose of section 8 of the Building Act, from drawing up plans or making drawings for the construction of, or alterations, additions or repairs to, a building, the floor area of which does not exceed 200 square metres;
- (c) from working as an employee or subordinate of an architect where such work does not include final designs or decisions and is done under the direct responsibility and supervision of an architect.

19. Registration of professional architect

(1) No person shall be registered as a professional architect to practise architecture unless he –

- (a) satisfies the Council that –
 - (i) (A) he is a citizen of Mauritius; or
(B) where he is not a citizen of Mauritius, he is a resident in Mauritius;
 - (ii) has attained the age of 21;
 - (iii) is of good character;
 - (iv) has not been convicted of an offence involving fraud or dishonesty in any country;
 - (v) has not been disqualified or deregistered from practising architecture on account of professional misconduct, malpractice, negligence, fraud, dishonesty or breach of a code of practice in any country; and
 - (vi) does not suffer from any mental impairment which is likely to hamper the discharge of his duties;

- (b) holds a degree or an equivalent qualification in architecture, after full-time studies of a duration of not less than 5 years, from a university or other institution which is –
 - (i) recognised by the *Union Internationale des Architectes* in accordance with the UNESCO/UIA Charter for Architectural Education; or
 - (ii) recognised by the competent authority of the country where the degree or equivalent qualification has been obtained; and
 - (iii) approved by the Council;
- (c) satisfies the Council that he has at least 2 years' approved post-qualification experience; and
- (d) pays such registration fee as may be prescribed.

(2) (a) A person who wishes to be registered as a professional architect shall make a written application to the Registrar in such form and manner as the Council may determine.

(b) An application made under paragraph (a) shall be accompanied by –

- (i) a certified copy of the applicant's birth certificate and national identity card, or any other acceptable evidence of his identity;
- (ii) the original or a certified copy of the applicant's certificate of qualification in architecture;
- (iii) evidence of not less than 2 years' approved post-qualification experience;
- (iv) such additional document or information as the Registrar may require; and
- (v) such processing fee as may be prescribed.

(3) On receipt of an application made under subsection (2), the Registrar shall refer the application to the Registration Board for its recommendations.

(4) (a) The Council may, after due consideration of the recommendations of the Registration Board, grant or reject the application and shall forthwith notify the applicant of its decision.

(b) Where the Council grants an application under paragraph (a), it shall, on payment of such registration and annual fees as may be prescribed, register the applicant as a professional architect and issue him with a certificate of registration, subject to such terms and conditions as the Council may determine.

(c) Where the Council registers a professional architect under paragraph (b), the Registrar shall forthwith enter, in the register of professional architects, the name, address, qualification and other particulars of that professional architect.

(5) Where the Council is satisfied that a professional architect has lost his certificate of registration, it may, on payment of such appropriate fee as may be prescribed, issue a duplicate certificate of registration to him.

20. Register

(1) The Registrar shall keep a register of professional architects or such other registers as may be necessary in such form and manner as the Council may determine.

(2) The Registrar shall enter in the register of professional architects –

- (a) the name, address, qualification and other particulars of every professional architect;
- (b) any alteration in the particulars of a professional architect;
- (c) an annotation as to whether a professional architect has been suspended or deregistered from practising architecture;
- (d) such other particulars as the Council may consider appropriate.

21. Annual fee

(1) Subject to subsection (2), every professional architect shall, on or before 30 November of every year, pay to the Registrar such annual fee as may be prescribed, in respect of the year commencing on 1 January of the following year.

(2) Where a professional architect fails to comply with subsection (1), he shall be liable to pay the annual fee together with a surcharge of 50 per cent of the annual fee by 31 January of the year in respect of which it is due.

(3) Where a professional architect fails to pay the annual fee together with the surcharge required under subsection (1), the Council may deregister the professional architect.

(4) Where a professional architect has been deregistered under subsection (3), the Council shall cause the Registrar to remove the name and other particulars of the professional architect from the register of professional architects.

(5) The Council may, where the name and other particulars of a professional architect have been removed from the register of professional architects under subsection (4), restore the name and other particulars of the professional architect on good cause shown and on payment of the annual fee together with its surcharge.

22. Annual list

(1) The Registrar shall, in February of every year, transmit to the Minister a list of all professional architects registered for that year.

(2) The Council shall, not later than the end of February of every year, publish in the *Gazette* an annual list of professional architects for that year.

23. Enrolment of trainee or student architect

(1) No person shall be enrolled as a –

- (a) trainee architect, unless he satisfies the requirements referred to in section 19(1)(b); or

- (b) student architect, unless he satisfies the Council that he is attending a full-time course in architecture at a university or other institution approved by the Council.

(2) A person who wishes to be enrolled as a trainee or student architect shall make a written application to the Registrar in such form and manner as the Council may determine.

(3) On receipt of an application made under subsection (2), the Registrar shall refer the application to the Council for its determination.

(4) Where the Council grants an application, it shall cause, on payment of such fee as may be prescribed, the Registrar to enter –

- (a) in the case of a trainee architect, his name, address and other particulars in a register of trainee architects; or
- (b) in the case of a student architect, his name, address and other particulars in a register of student architects.

(5) Where the Council rejects an application, it shall forthwith notify the applicant of its decision.

PART V – FOREIGN ARCHITECT

24. Foreign architect

No foreign architect shall be authorised to practise architecture in Mauritius unless –

- (a) he is engaged in relation to the construction of a Government building;
- (b) he enters, subject to section 25, into a joint venture agreement with a professional architect or firm of architects ;
- (c) he is engaged, subject to section 26, in relation to the construction of a building for any statutory corporation or Government company;
- (d) he is appointed, subject to section 27, by the Public Service Commission.

25. Foreign architect practising architecture under joint venture agreement

(1) A foreign architect may be authorised to practise architecture, pursuant to section 24(b), where –

- (a) he satisfies the requirements referred to in section 19(1)(a)(ii) to (vi), (b) and (c);
- (b) he provides architectural services in relation to not more than one project;
- (c) he enters, in relation to that project, into a joint venture agreement with a professional architect or a firm of architects;
- (d) the fee payable to the professional architect or firm of architects is not less than 51 per cent of the total fee to be paid for the provision of the architectural services;
- (e) the joint venture agreement is approved by the Council; and
- (f) he pays a fee of 0.05 per cent of the value of the project to the Council.

(2) Where a foreign architect wishes to be authorised to practise architecture under this section, he or his joint venture partner shall make a written application for authorisation to the Registrar, in such form and manner as the Council may determine.

(3) An application made under subsection (2) shall be accompanied by –

- (a) the name, address and qualification of the foreign architect;
- (b) documentary evidence that the foreign architect is authorised by the competent authority in his country to practise architecture;
- (c) a copy of the scope of works of the project and its estimates of costs;
- (d) a copy of the joint venture agreement;

(e) such additional document or information as the Registrar may require; and

(f) such processing fee as may be prescribed.

(4) On receipt of an application made under subsection (2), the Registrar shall refer the application to the Council for its determination.

(5) The Council shall consider the application within 30 days from the time the application has been referred to it by the Registrar.

(6) Where the applicant complies with the requirements specified in subsections (1) and (3), the Council may grant the application.

(7) (a) The Council shall, within 14 days of granting or rejecting an application, notify the applicant of its decision.

(b) Where the applicant is notified that his application has been granted, he shall, within 21 days of the notification –

(i) submit, in 3 originals, the joint venture agreement duly drawn up by a law practitioner; and

(ii) pay a fee of 0.05 per cent of the value of the project to the Council.

(c) Where the applicant complies with paragraph (b), the Council shall authorise the foreign architect to practise architecture in relation to the project referred to in the application under subsection (2), subject to such terms and conditions as it may determine.

(d) Where the applicant fails to comply with paragraph (b), the grant of the application shall lapse.

26. Foreign architect practising architecture for statutory corporation or Government company

(1) A foreign architect may be authorised to practise architecture, pursuant to section 24(c), where –

(a) he satisfies the requirements referred to in section 19(1)(a)(ii) to (vi), (b) and (c);

- (b) he provides architectural services in relation to the construction of a building for any statutory corporation or Government company; and
- (c) the construction of the building referred to in paragraph (b) is wholly or partly financed by a foreign Government, a foreign financial or banking institution, or by an international financial organisation.

(2) Where a foreign architect wishes to practise architecture under subsection (1), he, the statutory corporation or the Government Company, shall make a written application for authorisation to the Registrar, in such form and manner as the Council may determine.

(3) An application made under subsection (2) shall be accompanied by –

- (a) the name, address and qualification of the foreign architect;
- (b) documentary evidence that the foreign architect is authorised by the competent authority in his country to practise architecture;
- (c) documentary evidence that the construction of the building referred to in subsection (1)(b) is wholly or partly financed by a foreign Government, a foreign financial or banking institution, or by an international financial organisation;
- (d) such additional document or information as the Registrar may require; and
- (e) such processing fee as may be prescribed.

(4) On receipt of an application made under subsection (2), the Registrar shall refer the application to the Council for its determination.

(5) The Council shall consider the application within 30 days from the time the application has been referred to it by the Registrar.

(6) (a) Where the applicant complies with the requirements specified in subsections (1) and (3), the Council may grant the application

and authorise the foreign architect to practise architecture, subject to such terms and conditions as it may determine.

(b) The Council shall, within 14 days of granting or rejecting an application, notify the applicant of its decision.

27. Foreign architect appointed by Public Service Commission

A foreign architect may be authorised to practise architecture, pursuant to section 24(d), where –

- (a) the Council is satisfied that he meets the requirements referred to in section 19(1)(a)(ii) to (vi), (b) and (c); and
- (b) he is appointed by the Public Service Commission.

PART VI – DISCIPLINE

28. Preliminary investigation

(1) The Council may investigate into any complaint of –

- (a) professional misconduct, malpractice or negligence;
- (b) fraud or dishonesty;
- (c) a breach of the Code of Practice,

against an architect, including a professional architect in respect of whom the Council holds a delegated power.

(2) Where the Council investigates into a complaint under subsection (1), it –

- (a) shall notify the architect, whose conduct, act or omission is under investigation, of the nature of the complaint against him;
- (b) may summon and hear the architect who shall be given an opportunity of being assisted by a legal representative of his choice;
- (c) may summon and hear witnesses; and

(d) may call for the communication or production of any relevant record, document or article.

(3) The Council investigating into a complaint under subsection (1) shall keep a proper record of its proceedings.

(4) Where, in the course of an investigation, any person refuses to communicate or produce any record, document or article, on the ground of confidentiality, the Registrar may apply to a Judge in Chambers for an order directing that person to communicate or produce the record, document or article required for the purpose of the investigation.

(5) Where the Judge is satisfied that the record, document or article sought is *bona fide* required for the purpose of the investigation, he may make an order under subsection (4).

(6) The Council may, for the purpose of an investigation under subsection (1), appoint a committee consisting of not less than 3 members.

29. Disciplinary proceedings

(1) Where, after an investigation has been carried out under section 28, the Council considers it necessary to prefer charges against an architect, it shall forward to the architect a statement of those charges and call upon him to state in writing, before a date to be specified by the Council, any grounds on which he relies to exculpate himself.

(2) Where the architect does not furnish a reply to any charge forwarded under subsection (1) within the period specified or where, in the opinion of the Council, he fails to exculpate himself, the Council may, subject to section 34, institute disciplinary proceedings against him before a Professional Conduct Committee.

30. Professional Conduct Committee

(1) The Council may, for the purpose of section 29, set up a Professional Conduct Committee which shall consist of –

- (a) a President, who is or has been a Judge or Magistrate for not less than 5 years or a barrister of not less than 10 years' standing; and
- (b) 2 assessors, who shall be professional architects of not less than 15 years' experience and who are not members.

(2) The President and assessors of a Professional Conduct Committee shall be appointed by the Council on such terms and conditions as the Council may determine.

(3) The Council shall appoint a Secretary to a Professional Conduct Committee, who shall keep the minutes of proceedings of any meeting of the Professional Conduct Committee.

(4) (a) Where a President or an assessor is related by blood or marriage to an architect who is the subject of disciplinary proceedings, the President or assessor shall disclose his relationship to the Professional Conduct Committee and shall not take part in those proceedings.

(b) Any disclosure made under paragraph (a) shall be recorded in the minutes of proceedings.

(c) Where a President or an assessor does not take part in the proceedings under paragraph (a), the Council shall appoint another person to replace him.

(d) Any person appointed under paragraph (c) shall satisfy the requirements referred to in subsection (1)(a) or (b), as the case may be.

31. Proceedings of Professional Conduct Committee

(1) A Professional Conduct Committee shall meet at such time and place as the President thinks fit.

(2) Where disciplinary proceedings are instituted under section 29, the Professional Conduct Committee shall inquire into the charges preferred against the architect.

(3) A Professional Conduct Committee may –

(a) summon any person to appear before it to give evidence or produce any record, document or article;

(b) take evidence on oath, solemn affirmation or declaration and, for that purpose, administer an oath, solemn affirmation or declaration, as the case may be.

(4) Where, in the course of any disciplinary proceedings, a person refuses to communicate or produce any record, document or article, on the

ground of confidentiality, the Registrar may apply to a Judge in Chambers for an order directing that person to communicate or produce the record, document or article required for the purpose of the proceedings.

(5) Where the Judge is satisfied that the record, document or article sought is *bona fide* required for the purpose of the proceedings, he may make an order under subsection (4).

32. Disciplinary measures

(1) A Professional Conduct Committee shall, after having heard any disciplinary proceedings, forward to the Council its report and a copy of its proceedings, including any record, document or article produced, not later than one month after the completion of the proceedings.

(2) The report under subsection (1) shall include –

- (a) a finding as to whether the charge has been proved or not, and the reasons for such finding;
- (b) details of any matter which, in the Professional Conduct Committee's opinion, aggravates or alleviates the gravity of the charge; and
- (c) a summing up and such comments as will indicate clearly the opinion of the Professional Conduct Committee on the subject matter of the disciplinary proceedings.

(3) A Professional Conduct Committee shall not, in its report, make any recommendation regarding the form of disciplinary measure.

(4) (a) Where the report is in relation to a professional architect, other than a professional architect in respect of whom the Council holds a delegated power, and states that the charge has been proved, the Council may–

- (i) administer him a reprimand or a severe reprimand;
- (ii) suspend him from practising architecture for a period not exceeding 2 years; or
- (iii) deregister him from practising architecture.

(b) Where the report is in relation to an authorised foreign architect and states that the charge has been proved, the Council may revoke his authorisation or take such appropriate disciplinary measure as it may determine.

(c) Where the report is in relation to a professional architect in respect of whom the Council holds a delegated power, the Council shall submit its own report to the Public Service Commission, in accordance with regulation 46E of the Public Service Commission Regulations.

(5) Where the punishment inflicted by the Public Service Commission on a professional architect, in respect of whom the Council holds a delegated power, is dismissal or retirement in the interest of the public service, the Council shall determine whether or not the professional architect shall be suspended or deregistered from practising architecture.

(6) A decision of the Council under subsection (4) or (5) shall be communicated to the architect not later than 14 days from the date of the decision.

33. Other disciplinary measures

(1) Without any of the proceedings provided for in sections 28, 29, 31 and 32 being instituted, the Council shall, where an architect has been convicted of an offence and is serving a sentence of imprisonment or penal servitude –

- (a) in the case of a professional architect –
 - (i) suspend him, for such time as the Council may determine, from practising architecture; or
 - (ii) deregister him from practising architecture;
- (b) in the case of an authorised foreign architect, revoke his authorisation.

(2) The Registrar shall cause any suspension or deregistration under this Act to be published in the *Gazette* and in 2 daily newspapers.

34. Summary proceedings

Where the Council is satisfied, after having carried out a preliminary investigation against an architect, other than a professional architect in

respect of whom the Council holds a delegated power, that he has committed an act or omission which, in its opinion, is not considered to be of a serious nature, it may inflict upon him a warning or severe warning.

35. Name and other particulars to be removed from register

Where a professional architect has been deregistered from practising architecture under this Act, the Council shall cause the Registrar to remove the name and other particulars of the professional architect from the register of professional architects.

36. Restoration of name and other particulars to register

(1) Where the name and other particulars of a professional architect have been removed from the register of professional architects in accordance with this Act, the name and other particulars of that person shall not be restored except by order of the Council or of the Supreme Court.

(2) The Council may, on its own motion or on application of the person concerned and after holding such inquiry as it may determine, cause the name and other particulars of a person which have been removed from the register of professional architects to be restored.

PART VII – FINANCIAL PROVISIONS AND ACCOUNTS

37. General Fund

The Council shall set up a General Fund –

- (a) into which shall be paid –
 - (i) any grant, donation and contribution received by it;
 - (ii) any fee, rental or interest; and
 - (iii) any other sum which may lawfully accrue to it;
- (b) out of which all payments required to be made by the Council shall be effected.

38. Execution of documents

(1) Subject to subsection (2), no deed, instrument, contract or other document shall be executed or signed by or on behalf of the Council

unless it is signed by the Chairperson or, in his absence, by the Vice-Chairperson.

(2) No cheque shall be signed by or on behalf of the Council unless it is signed by the –

- (a) Chairperson or, in his absence, by the Vice-chairperson; and
- (b) the Registrar.

39. Donation

Article 910 of the Code Civil Mauricien shall apply to the Council.

40. Audit

(1) The Council shall keep proper accounts of all sums received and paid.

(2) The accounts for each financial year shall be audited by a licensed auditor appointed by the Council.

PART VIII – MISCELLANEOUS

41. Seal of Council

The Council shall have a seal which shall bear such device as may be approved by the Council.

42. Legal proceedings

(1) The Council shall act, sue and be sued in its corporate name.

(2) Service of process by or on the Council shall be sufficient if made on behalf of or on the Registrar.

43. Confidentiality

(1) No member or officer shall, during or after his relationship with the Council, use or disclose any matter which comes to his knowledge in the performance of his functions, except for the purposes of administering this Act.

(2) Any person who, without lawful excuse, contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

44. Appeal against decision of Council

- (1) A person who is aggrieved by a decision of the Council –
- (a) not to register him as a professional architect;
 - (b) not to authorise him to practise architecture as an authorised foreign architect; or
 - (c) to take any disciplinary measure against him,

may apply for a judicial review of the decision before the Supreme Court.

(2) On an application under subsection (1), the Supreme Court may give such directions in the matter as it may determine.

45. Offences

- (1) (a) Any person, other than an architect, who –
- (i) practises architecture;
 - (ii) takes or uses the name, description or title “Professional Architect”, “Authorised Foreign Architect”, “Consulting Architect”, “Qualified Architect” or “Architect”, or any abbreviation thereof in whatever language, either alone or in connection with any other title, name, words or letters;
 - (iii) holds himself out or conducts himself as an architect;
 - (iv) by any wilful act or omission, causes or induces any person to believe that he is an architect; or
 - (v) demands, sues for or recovers in any Court any charge by way of claim, counter-claim or otherwise

in relation to any architectural services he has provided as an architect,

shall commit an offence.

(b) For the purpose of this section, the performance of a single act relating to the practice of architecture may be held to be sufficient evidence of such practice.

(c) Notwithstanding subsection (1)(a)(ii), nothing in this section shall prevent –

- (i) the use by a person of the designation “naval architect”, “marine architect” or “landscape architect”;
- (ii) a firm of architects from using the name or title containing the word “Architect”.

(2) (a) A professional architect who practises architecture –

- (i) whilst being suspended from practising architecture; or
- (ii) whilst being deregistered from practising architecture,

shall commit an offence.

(b) A foreign architect who practises architecture where his authorisation to practise architecture under section 25, 26 or 27 has been revoked shall commit an offence.

(3) Any person who –

- (a) fails to attend a Professional Conduct Committee after having been summoned;
- (b) refuses to take an oath or make a solemn affirmation or declaration, as the case may be, before a Professional Conduct Committee;

- (c) refuses, without reasonable excuse, to produce any record, document or article before the Professional Conduct Committee;
- (d) gives false evidence or evidence which he knows to be misleading before a Professional Conduct Committee;
- (e) at any sitting of a Professional Conduct Committee –
 - (i) insults a member of the Committee; or
 - (ii) wilfully interrupts the proceedings or commits any other contempt of the Committee;
- (f) fraudulently procures or attempts to procure his registration as a professional architect;
- (g) obstructs the proceedings of a meeting of the Council or a Professional Conduct Committee;
- (h) molests any member of the Council or a Professional Conduct Committee in the course of, or on account of, any investigation or proceedings under this Act;
- (i) in any other manner contravenes this Act;
- (j) contravenes any regulations made under this Act,

shall commit an offence.

(4) Any person who commits an offence under this Act shall, on conviction, where no specific penalty is provided, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

46. Regulations

(1) The Minister may, for the purposes of this Act, make such regulations as he thinks fit.

(2) Any regulations made under subsection (1) may provide –

- (a) for rules and guidelines for professional assessment through Continuous Professional Development programmes;
- (b) for the levying of fees and the taking of charges;
- (c) for the amendment of the Schedule;
- (d) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

47. Repeal

The Professional Architects Council Act is repealed.

48. Consequential amendment

The Building Act is amended –

- (a) in section 2 –
 - (i) by deleting the definitions of “licensed architect” and “professional architect”;
 - (ii) by inserting, in the appropriate alphabetical order, the following new definition –

“architect” has the same meaning as in the Professional Architects’ Council Act 2011;
- (b) in section 8, by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) in respect of a building having a floor area of more than 200 square metres, plans or drawings for the proposed construction, alterations, additions or repairs drawn up and signed by an architect;

49. Transitional provisions

- (1) In this section –

“licensed architect” has the same meaning as in the repealed Act;

“repealed Act” means the Professional Architects Council Act.

(2) Every professional architect registered under the repealed Act shall, at the commencement of this Act, be deemed to be registered as a professional architect under this Act.

(3) Every licensed architect under the repealed Act shall, at the commencement of this Act, be deemed to be registered as a professional architect under this Act.

(4) The Registrar shall enter in the register of professional architects the name, address, qualification and other particulars of every professional architect whose name, address, qualification and other particulars appear on the register of professional architects kept under the repealed Act.

(5) (a) Every person who, at the commencement of this Act, is a member of the Council under the repealed Act shall continue in office until the first composition of the Council under this Act.

(b) The election of the members for the first composition of the Council shall be conducted in the manner specified in the Schedule.

(6) The Registrar appointed under the repealed Act shall continue in office until the first composition of the Council under this Act.

(7) Any foreign architect who, at the commencement of this Act, is providing architectural services in relation to a project, may continue to provide those services in relation to that project.

(8) The contract of every person employed on a fixed term performance contract by the Council under the repealed Act shall, at the commencement of this Act, be deemed to have been entered into by the Council.

(9) The assets and funds of the Council under the repealed Act shall, at the commencement of this Act, vest in the Council.

(10) Any act or thing done by the Council under the repealed Act shall, at the commencement of this Act, be deemed to have been done by the Council.

(11) All proceedings, judicial or otherwise, commenced before and pending at the commencement of this Act, by or against the Council under the repealed Act, shall be deemed to have been commenced, and may be continued, by or against the Council.

(12) Section 8(b) of the Building Act, as amended by section 48(b) of this Act, shall not apply to an application for a permit pending at the commencement of this Act.

(13) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for such transition.

50. 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.

SCHEDULE

[Sections 6(1)(b) and 49(5)(b)]

PROCEDURE FOR ELECTION

1. Calling for nominations and appointment of nomination day

Within 2 months of the coming into operation of this Act and, thereafter, not less than one month before the expiry of the term of office of the members specified in section 6(1)(b), the Registrar shall publish, in the *Gazette* and such newspaper as he thinks fit, a notice –

- (a) inviting the submission of nominations; and
- (b) appointing a day, time and place for the nominations to be submitted.

2. Eligibility to stand as candidate

No person shall be eligible to stand as candidate for election as a member of the Council unless, on nomination day, he is a professional architect.

3. Procedure after nomination

Where the number of persons duly nominated exceeds the number of persons to be elected, the Registrar shall publish, in the *Gazette* and such newspaper as he thinks fit, a notice –

- (a) specifying the names of the persons duly nominated;
- (b) appointing a day, time and place, being not less than 15 days after the publication of the notice, for the holding of an election.

4. Persons entitled to vote

(1) Every person who, on nomination day, is a professional architect shall be entitled to vote for the election of the members.

(2) Every professional architect shall vote for such number of candidates as there are vacancies available in the membership of the Council.

5. Election

(1) The election of the members shall be conducted under the supervision of the supervising officer or his representative.

(2) The supervising officer shall forthwith submit to the Minister the results of the election.

(3) The Minister shall, within 21 days of receipt of the results of the election, publish in the *Gazette* the composition of the Council.
