

ANTIGUA AND BARBUDA



ENGINEERS (PROFESSIONS) ACT, 2018

No. 20 of 2018

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ANTIGUA AND BARBUDA
ENGINEERS (AMENDMENT) ACT, 2017
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[L.S.]



I Assent,

Rodney Williams,
Governor-General.

30th October, 2018.

ANTIGUA AND BARBUDA

THE ENGINEERS (PROFESSIONS) ACT, 2018

No. 20 of 2018

AN ACT to provide for the registration, licensing and regulation of persons who engage in the practice of Engineering in Antigua and Barbuda and for incidental and connected purposes

ENACTED by the Parliament of Antigua and Barbuda as follows:

PART I

PRELIMINARY

1. Short Title

This Act may be cited as the Engineers (Professions) Act, 2018.

2. Commencement

This Act comes into force on a date fixed by the Minister and published by Notice in the *Gazette*.

3. Interpretation

In this Act –

“Engineer” means a person who is registered as an Engineer pursuant to sections 17 or 23 of this Act to engage in the practice of the profession of engineering as defined in this Act;

“Antigua and Barbuda Association of Professional Engineers” or “Engineers Association” means the Antigua and Barbuda Association of Professional Engineers established under section 4;

“Council of Engineers of Antigua and Barbuda” or “Engineers Council” means the Council of Engineers of Antigua and Barbuda, constituted in accordance with section 5;

“engineering” means a service or work which requires the application of mathematical and scientific study, experience, skill and judgment towards developing ways to utilize the materials and forces of nature to support various activities and includes –

- (a) consultation, investigation, evaluation, analysis, planning, engineering for program management, providing an expert engineering opinion or testimony, engineering for testing or evaluating materials for construction or other engineering use, and mapping;
- (b) design, conceptual design, or conceptual design coordination of engineering works or systems;
- (c) development or optimization of plans and specifications for engineering works or systems;
- (d) planning the use or alteration of land or water or the design or analysis of works or systems for the use or alteration of land or water;
- (e) the teaching of engineering;
- (f) performing an engineering survey or study;
- (g) engineering for construction, alteration, or repair of real property;
- (h) engineering for preparation of an operating or maintenance manual;
- (i) engineering for review of the construction or installation of engineered works to monitor compliance with drawings or specifications;
- (j) a service, design, analysis, or other work performed for a public or private entity in connection with a utility, structure, building, machine, equipment, process, system, work, project, or industrial or consumer product or equipment of a mechanical,

electrical, electronic, chemical, hydraulic, pneumatic, geotechnical, or thermal nature; or

- (k) providing an opinion or analysis related to a (a) to (j) or any other professional service necessary for the planning, progress, or completion of an engineering service referred to in (a) to (j); and
- (l) advising and reporting on, the designing, inspection and construction of any of the works, operation or other matters set out in paragraph 2(b) of the **Fourth Schedule**;

“insurance” or “professional liability insurance” means the insurance that is required under section 29 of this Act;

“licence” means a licence to practice as an engineer which is issued under section 25 or 26 of this Act;

“member”, in relation to the Engineers Association, means a person who is registered as an engineer under section 17 of this Act;

“Minister” means the Minister with responsibility for Legal Affairs

“Register of Engineers” means the Register of Engineers that is kept and maintained by the Registrar pursuant to section 11;

“Registrar” means the person appointed by the Public Service Commission to perform the functions of Registrar under section 11;

“Tribunal” means the Professional Regulation Review Tribunal established under section 44 of the Architects (Professions) Act, 2018.

PART II ADMINISTRATION

4. Establishment of the Antigua and Barbuda Association of Professional Engineers

(1) There is hereby established a body corporate to be known as the Antigua and Barbuda Association of Professional Engineers.

(2) The membership of the Antigua and Barbuda Association of Professional Engineers shall be comprised of all registered Engineers.

5. Establishment of the Council of Engineers of Antigua and Barbuda

(1) There is hereby established a body to be known as the Council of Engineers of Antigua and Barbuda.

(2) The Council of Engineers shall be constituted in accordance with the First Schedule and is responsible for the administration of matters related to the profession of engineering in Antigua and Barbuda.

6. Purpose and Functions of the Engineers Council

(1) The purpose of the Engineers Council is to –

- (a) promote, maintain and improve the standards, professional conduct and proficiency of the practice of engineering in Antigua and Barbuda;
- (b) represent and protect the interests of the profession of engineering in Antigua and Barbuda;
- (c) protect and assist the public in all matters relating to the practice of engineering;
- (d) promote good relations, domestically, –
 - (i) within the profession;
 - (ii) between the profession of engineering and other private and public persons and bodies concerned with engineering or works in Antigua and Barbuda; and
 - (iii) between the profession of engineering and the general public; and
- (e) promote the profession of engineering in Antigua and Barbuda, regionally and internationally, through –
 - (i) good relations with professional bodies of engineers in other countries; and
 - (ii) membership in or participation in the activities of regional and international associations of engineers.

(2) The functions of the Engineers Council include –

- (a) the assessment of applications for registration as engineers and licensing to practice;

- (b) the registration of engineers and licensing of persons who qualify to practise engineering;
- (c) the regulation of persons who are registered or licensed to practise engineering;
- (d) the formulation, promotion and review of professional standards and codes of conduct for the profession of engineering;
- (e) the investigation of complaints of professional misconduct of engineers and contraventions of this Act;
- (f) the imposition of appropriate sanctions in accordance with the Act, including suspension or revocation of registration or licensing, as necessary;
- (g) the consultation with or provision of advice to the government on legislative and policy matters relating to the practice of engineering and to its purpose and functions;
- (h) the initiation or promotion of, or participation in training and other programmes for the improvement or development of the practice of engineering;
- (i) the maintenance of detailed records of registered engineers;
- (j) the performance of other functions conferred on the Engineers Council by this Act; and
- (k) the performance of any function necessary to secure its objectives.

7. Committees of the Engineers Council

(1) The Engineers Council shall establish the following committees for the efficient performance of its functions:

- (a) the Qualification and Assessment Committee;
- (b) the Complaints and Investigations Committee, and
- (c) the Disciplinary Committee.

(2) The Engineers Council may establish such other committees as it considers necessary.

8. Qualification and Assessment Committee

(1) The Qualification and Assessment Committee shall be comprised of –

- (a) the Chairperson of the Engineers Council;
- (b) two other members of the Engineers Council, appointed by the Chairperson of the Engineers Council; and
- (c) two other members of the Engineers Association elected by the members,

to serve for a period of three years.

(2) The Qualification and Assessment Committee shall –

- (a) establish an efficient system of assessments;
- (b) examine applications for registration or licensing; and
- (c) advise the Engineers Council on the adequacy of the qualifications of an applicant for registration or licensing.

(3) The Chairperson of the Engineers Council shall chair the meetings of the Committee but if the Chairperson is absent from a meeting the other members of the Committee shall elect a member to chair that meeting.

(4) Three members of the Qualification and Assessment Committee constitute a quorum.

(5) The Qualification and Assessment Committee shall meet at such times as are necessary to efficiently perform its functions.

(6) A member of the Committee who –

- (a) is absent without excuse from three consecutive meetings of the Council; or
- (b) has informed the Chairman in writing of his inability to perform the role of member,

shall be removed from the Committee.

9. Complaints and Investigations Committee

(1) Subject to section 33(3), the Complaints and Investigations Committee shall be comprised of –

- (a) two members of the Engineers Council appointed by the Chairperson of the Engineers Council; and
- (b) three other members of the Engineers Association elected by the members of the Engineers Association,

to serve for a period of three years.

(2) The Complaints and Investigations Committee shall conduct preliminary investigations concerning –

- (a) the ability of an engineer to discharge competently his professional responsibilities;
- (b) the professional misconduct of an engineer; and
- (c) investigate other complaints respecting the conduct of an engineer.

(3) The members of the Complaints and Investigations Committee shall elect a member to be the Chairperson for meetings of the Committee.

(4) Three members of the Complaints and Investigations Committee constitute a quorum.

(5) The Complaints and Investigations Committee shall meet at such times as are necessary to efficiently perform its functions.

(6) Complaints shall be received and investigated by the Complaints and Investigations Committee in accordance with the Second Schedule.

10. Disciplinary Committee

(1) Subject to section 33(3), the Disciplinary Committee shall be comprised of five members of whom not less than three members shall be registered and practicing engineers for a minimum continuous period of at least ten years.

(2) Within the ten years that immediately follow the commencement of this Act, a person may be a member of the Disciplinary Committee if that person would have qualified for registration under the Engineers Registration Act, Cap. 153, and practiced as an engineer for at least ten years prior to the commencement of this Act.

(3) The Disciplinary Committee shall –

- (a) hear and determine complaints or allegations of professional misconduct or incompetence in respect of an engineer following a preliminary investigation by the Complaints and Investigations Committee;

- (b) perform such other functions related to disciplinary matters assigned or referred to it by the Engineers Council; and
- (c) upon conclusion of a hearing, report in writing its findings, decision and reasons for its decision to the Engineers Council.

(4) For the purpose of conducting a hearing, the Disciplinary Committee may engage the services of an Attorney-at-Law of not less than 15 years standing or a former Judge to assist the Disciplinary Committee as necessary.

(5) The proceedings of the Disciplinary Committee shall be conducted in accordance with the Third Schedule.

11. Registrar

(1) The Public Service Commission shall appoint a Registrar for the purpose of –

- (a) keeping and maintaining a Register of Engineers, including a Specialist Register of Engineers; and
- (b) providing administrative support to the Engineers Council in the performance of its functions.

(2) The Registrar shall record in the Register of Engineers the following information in respect of every person who is or has been registered as an engineer in Antigua and Barbuda:

- (a) the person's name;
- (b) address and other contact details;
- (c) details of the person's eligibility for registration as an engineer;
- (e) details of a person's qualification for registration as a specialist;
- (f) details of every licence to practice issued to an engineer;
- (g) details of additional qualifications and specialisation in engineering or a related profession;
- (h) details of any complaint, investigation, disciplinary proceedings, order or other disciplinary action in respect of an engineer; and
- (i) other particulars relevant to the person's registration and licensing.

(3) The Registrar shall make available –

- (a) for public inspection, at all reasonable times, a list of all engineers on the Register of Engineers and a list of the engineers who hold a licence to practice; and
- (b) to any person who request in writing, upon reasonable grounds, other information recorded in the Register of Engineers.

(4) The Registrar shall publish in the Gazette and one newspaper with nationwide circulation no later than the 30th day of April in every year, an alphabetical list of persons who on the 31st day of January in that year are registered and hold a licence to practice for that year.

(5) Notwithstanding subsection (2), a record of a complaint or investigation against a member which does not result in disciplinary proceeding or the imposition of any disciplinary measure shall be struck from the Register of Engineers two years after the record was inserted on the Register of Engineers.

(6) The Engineer Council shall, without request, provide to the Registrar in a timely manner, all the information that is relevant to the matters to be recorded in the Register of Engineers under subsection (2).

12. Relationship with the State

(1) The Engineers Council does not represent the State and is required to act independently, impartially and in the interest of the public when performing its functions.

(2) The Minister or any other member of the government shall not give the Engineers Council, or any of its Committees, or the Registrar any direction with respect to –

- (a) the application of a person for registration or licensing; or
- (b) a complaint, investigation or disciplinary proceedings; or
- (c) the imposition of disciplinary measures; or
- (d) the performance of any of its functions.

(3) The Minister may, in the interest of the public, give the Engineers Council directions of a general nature with respect to general policies and standards for the practise of engineering and the provision of reports.

PART III

REGISTRATION

13. Requirement for Registration

(1) A person must be registered in order to obtain a licence and to practise as an engineer in Antigua and Barbuda.

(2) A person who is not registered shall not use or conduct business under a name, title or designation which includes the word “engineer” or which is likely to suggest that that person is registered or is entitled to be registered as an engineer under this Act.

(3) Subsection (2) does not prevent a business from using or conducting business under a name, title or designation which includes the word “engineer” if the business –

- (a) is under the control and management of an engineer; and
- (b) all engineering services and functions of the business are carried out by an engineer.

(4) For the purpose of subsection (3), “business” includes a company, firm, partnership or other undertaking which is carried on for any gain, reward or profit.

14. Requirement for Registration for Architecture

(1) A person who is registered under the Architects Profession Act, 2018 is not required to register under this Act to provide an engineering service if that person provides the services solely for the purpose of architecture.

(2) In determining whether a service is solely for the purpose of architecture under subsection (1), the **Fourth Schedule** applies.

(3) A person who is registered as an engineer under this Act, is not required to register under the Architects Profession Act, 2018 to provide a service in architecture if that service is provided in the circumstances and manner provided for in the Fourth Schedule.

15. Application for Registration

An application for registration as an engineer must be submitted by an applicant to the Engineers Council in the prescribed form and accompanied by the following:

- (a) satisfactory proof of the identity of the applicant;
- (b) sufficient evidence of eligibility for registration, including qualifications and experience;
- (c) proof of good character;
- (d) a certificate of good standing from the applicant’s previous registering body, if applicable;
- (e) the prescribed application fee and registration fee;
- (f) detailed contact information and proof of actual or the proposed professional address; and

- (g) such further and other information as the Engineers Council may require in respect of the matters referred to in paragraphs (a) to (c).

16. Eligibility for Registration

- (1) A person is eligible to be registered as an engineer if that person –
 - (a) is qualified under subsection (2) for registration;
 - (b) has at least three years practical experience working under the supervision of a registered engineer;
 - (c) is at least twenty-one years; and
 - (d) is a fit and proper person for registration.
- (2) A person is qualified to be registered as an engineer if that person holds a degree in engineering or other form of qualification which is equivalent to a degree that –
 - (a) has been granted by a university, college, school of engineering or other higher education institution that is authorised or accredited under the laws of the country where it is granted to confer such qualification in engineering; and
 - (b) is recognised by the Engineers Council, acting on the advice of the National Accreditation Board, as evidence of satisfactory qualification in engineering.
- (3) In determining whether a person is fit and proper for registration as an engineer, the Engineers Council shall consider whether the applicant –
 - (a) can read, write, speak and understand the English language;
 - (b) has been convicted in any country for –
 - (i) an offence that is an indictable offence in Antigua and Barbuda;
 - (iii) an offence involving fraud or physical violence; or
 - (iii) an offence related to the practice of engineering;
 - (c) has ever had his registration as an engineer or licence to practice engineering in any country suspended, revoked or cancelled and the reasons for the suspension, revocation or cancellation;
 - (d) is or has ever been the subject of bankruptcy proceedings;

- (e) is an executive officer of a corporation that is or has been the subject of receivership, winding-up or similar action or proceedings;
- (f) for any other reason, including mental incapacity, lacks the ability to competently perform as an engineer.

17. Grant of Registration

The Engineers Council shall issue a certificate of registration in the prescribed form to an applicant who satisfies the Engineers Council that he is eligible to be registered as an engineer and who has paid the prescribed fee.

18. Refusal to Register

Where the Engineers Council receives an application for registration referred to in section 15, and the Engineers Council is not satisfied that the applicant is eligible to be registered, the Engineers Council shall give written notice of this fact to the applicant within sixty days of the date of receipt of the application by the Council.

19. Request for Additional Information

(1) If the Engineers Council require further information from an applicant in order to determine whether to grant or refuse registration, the Engineers Council shall promptly request in writing the information required to make the determination.

(2) Upon receipt of the information requested, the Engineers Council shall make a determination respecting the applicant's qualification for registration and notify the applicant in writing of that determination within sixty days of the submission to the Engineers Council by the applicant of all the requested information.

(3) If the Engineers Council does not receive the information requested of the applicant within sixty days from the date of the request, the Engineers Council shall immediately notify the applicant in writing that the application is refused due to insufficient information.

20. Application for reconsideration of decision

(1) Where the Engineers Council refuses to register an applicant, the applicant may, within three months of receipt of the notice of refusal, apply to the Engineers Council in writing for reconsideration of its decision on the basis that the reason for the decision to refuse the application was erroneous.

(2) The Engineers Council may allow or deny the application for reconsideration.

(3) Where the Engineers Council allows the application for reconsideration, the Council may –

- (a) confirm its earlier decision to refuse the application and advise the applicant of his right to appeal to the Professional Review Tribunal; or
- (b) grant the registration of the applicant as an architect.

(4) Where the Engineers Council deny the application for reconsideration, the Council shall inform the applicant within fourteen (14) days of its decision and of the applicant's right to appeal the decision to refuse his registration to the Professional Review Tribunal.

21. Duration of Registration

The registration of an engineer shall continue until or unless the registration is suspended or cancelled in accordance with this Act.

22. Temporary or Provisional Registration

(1) Notwithstanding section 16 to 22, a person who is registered as an engineer by a Board, Council or other recognised professional body in a country listed in the Fifth Schedule and with which Antigua and Barbuda or the Engineers Council has entered into a mutual recognition agreement may, upon payment of the prescribed fee, apply to the Engineers Council for temporary or provisional registration.

(2) Temporary or provisional registration is for such temporary duration and subject to such condition as provided for in the relevant mutual recognition agreement.

23. Registration of a Specialty and of additional qualifications

(1) The Engineers Council may recognise as a specialty in the field of engineering any qualification or distinction awarded to a registered engineer by an institution that is approved or accredited to grant such awards.

(2) A person who is registered or is entitled to be registered as an engineer under this Act, and who obtains or is awarded a recognised specialty is entitled on payment of a prescribed fee to have his or her name entered on the Specialist register together with the details of the specialty.

24. Corrections to the register

The Registrar shall –

- (a) delete from the register the names of all persons registered under this Act who are deceased or are no longer qualified to practise engineering;
- (b) restore to the register the name and details of the qualification of any person who the Engineers Council directs should be restored;

- (c) with the approval of the Engineers Council, make such alterations and additions to the register in relation to a registered engineer as may from time to time become necessary.

PART IV LICENCE TO PRACTISE ENGINEERING

25. Issue of Licence to Practise

(1) An engineer who is duly registered under this Act may apply in the prescribed form to the Engineers Council for a licence to practice.

(2) The Engineers Council shall issue the licence to practice to the applicant once satisfied that the applicant –

- (a) is registered on the Register of Engineers;
- (b) has paid the prescribed fee for the licence to practice; and
- (c) has obtained professional liability insurance in accordance with section 29 for the period in respect of which the licence is to be issued.

26. Issue of Temporary and Provisional Licence

(1) A person who has been granted temporary or provisional registration is entitled to obtain, upon payment of the prescribed licence fee, a licence to practice for the duration of the registration.

(2) A temporary or provisional licence shall be subject to such limitation and conditions as are appropriate under relevant mutual recognition agreement.

27. Duration of Licence

A licence to practice shall continue in force until the 31st day of December of the year in which it is issued unless the licence –

- (a) has been suspended or cancelled in accordance with this Act; or
- (b) is expressed to be for a specified duration.

28. Form of Licence

A licence to practice as an engineer shall be in the prescribed form.

29. Professional Liability Insurance

(1) An engineer shall maintain full professional liability insurance at all times during which the engineer holds a licence to practise.

(2) The professional liability insurance policy shall cover –

- (a) loss or damage to the engineer's equipment employed in the provision of the services;
- (b) civil liability for damage caused to third parties arising out of the provision of the services; and
- (c) accidental death, dismemberment or permanent disability resulting from bodily injury incurred in connection with the provision of the services.

(3) The Engineers Council may establish, administer, maintain and operate a professional insurance liability scheme for licensed engineers for the purpose of subsection (2) and in respect of such scheme may –

- (a) determine classes of membership for insurance;
- (b) determine the insurance fee or contribution for members in each class;
- (c) determine the deductibles that apply in certain circumstance;
- (d) provide for payment of insurance fees by installment or in advance; and
- (e) provide for specific types or values of transaction which require additional insurance fees or contributions to be paid

30. Proof of insurance

The Engineers Council may at any time require an engineer who holds a licence to practise to provide proof of –

- (a) the indemnity insurance policy referred to in section 29;
- (b) the current status of the insurance policy including, proof of regular and up to date payment of premiums in respect of the insurance policy.

PART V COMPLAINTS AND INVESTIGATIONS

31. Complaints

A representation, complaint or allegation in respect of any matter relating to the professional conduct or competence of an engineer may be made in writing by any person to the Engineers Council.

32. Power of Engineers Council to Investigate

(1) The Engineers Council has the power to investigate any matter, however arising, concerning the practice of engineering or the conduct of an engineer where it is believed that such an investigation is warranted in the public interest or in the interest of maintaining the standards and integrity of the profession.

(2) The Engineers Council, on its own motion and with or without conducting a preliminary investigation, may conduct –

- (a) a formal hearing into the ability of an engineer to practise engineering; or
- (b) an informal or formal hearing into the professional conduct of an engineer.

(3) The Engineers Council shall investigate –

- (a) any representation, allegation or complaint made by an engineer respecting the conduct or competence of another engineer; or
- (b) any allegation or complaint made by a person other than an engineer, respecting the matter of professional misconduct, unless the Engineers Council has determined that the allegation is frivolous or vexatious.

(4) The Engineers Council may investigate any allegation or complaint made by any person respecting any matter relating to the provision of architectural services by an engineer.

33. Form and Conduct of Investigation

(1) An investigation by the Engineers Council may be in the form of a preliminary investigation, an informal hearing, or a formal hearing.

(2) Subject to sub-section (3), a preliminary investigation of the Engineers Council shall be conducted by the Complaints and Investigations Committee and an informal or a formal hearing of the Engineers Council shall be conducted by the Disciplinary Committee.

(3) If the Engineers Council determines, with respect to an investigation, that special skill or expertise is required, the Engineers Council may appoint one or more person that possess the requisite skills or expertise to the Complaints and Investigations Committee for the whole or part of the investigation.

34. Referral to Committees for Investigation

(1) When the Engineers Council determines, on its own motion or on receipt of a representation, allegation or complaint, that an investigation into the professional conduct, capability or competence of an engineer should be conducted, the Engineers Council shall, in accordance with section 33, refer the matter to –

- (a) the Complaints and Investigations Committee; or
- (b) the Disciplinary Committee.

(2) The Council shall give prompt notice of the referral, in writing, to the engineer in respect of whom the investigation is to be conducted.

35. Report concerning Investigation

Within thirty days following the conclusion of an investigation, the Committee responsible for the conduct of an investigation under this Part shall submit to the Engineers Council a written report that includes the findings of the Committee, the decisions, reasons for the decisions and the recommendations or directions of the Committee respecting the matter.

36. Determination of Council

(1) Subject to subsection (2), upon the receipt of a report referred to in section 35, the Engineers Council shall, promptly, make a determination in respect of the matter, taking into account the report submitted and shall take such action as it considers fair and appropriate in the circumstances.

(2) The Engineers Council, where it considers it appropriate to do so, may invite the engineer to appear before it or to provide written submissions in respect of the matter as the Engineers Council considers necessary, before making a determination.

(3) If, in the case of a preliminary investigation, the Engineers Council accepts the recommendation of the Complaints and Investigations Committee that a matter be referred to the Disciplinary Committee, the Engineers Council shall inform the engineer and the complainant, if any, of –

- (a) the conclusion of the preliminary investigation; and

(b) the decision and the reasons for the decision.

(4) In respect of any other investigation, the Engineers Council shall give written notice to the engineer who is the subject of the investigation, of decision arising out of the investigation and whether –

(a) no further action is to be taken by the Engineers Council respecting the matter; or

(b) the matter is to be referred to the Disciplinary Committee for the conduct of a formal or informal hearing and inviting the engineer to make such written representation to the Disciplinary Committee within a specified time.

(5) If the report of an investigation by the Disciplinary Committee indicates that it is likely that the conduct or activity of an engineer constitutes a criminal offence, the Engineers Council shall submit a copy of the report to the Director of Public Prosecutions.

PART VI DISCIPLINARY MEASURES

37. Measures for Criminal Conviction

(1) If an engineer is convicted of a criminal offence –

(a) in Antigua and Barbuda that is punishable on indictment; or

(b) in another country that is comparable to an offence punishable on indictment in Antigua and Barbuda,

the Engineers Council may suspend or cancel the registration of the engineer .

(2) The Engineers Council may suspend registration for such period as it considers appropriate after considering the nature of the offence.

(3) Where the registration of the engineer was previously suspended as a consequence of a criminal conviction, the Engineers Council may cancel the registration of the Engineer.

(4) If the Engineers Council cancels the registration of an engineer, the name and record of the engineer shall be struck off the Register of Engineers and the reasons for the cancellation of registration shall be recorded.

38. Measures for Professional Misconduct

If, following an investigation of the Disciplinary Committee, the Engineers Council determines that an engineer engaged in a practice or activity that amounts to professional misconduct, the Council may, in writing –

- (a) reprimand the engineer;
- (b) suspend the registration of the engineer –
 - (i) for a specified duration as the Engineers Council considers appropriate; or
 - (ii) until the occurrence of some specified future event; or
- (c) cancel the registration of the engineer, remove his name from the register and revoke his certificate.

39. Measures for Incompetence

If, an engineer is found to be incompetent or lacking ability, the Engineers Council shall, where section 38 does not apply to the conduct of the engineer –

- (a) suspend his registration for such a period as the Engineers Council considers appropriate;
- (b) cancel his registration and remove his name from the Register of Engineers; or
- (c) impose as a pre-condition for the renewal of the registration.

40. Measure for Failure to Insure

The Engineers Council may cancel or suspend an engineer's licence to practise if the engineer fails to take out and maintain sufficient professional liability insurance.

41. Striking off Fraudulent Entry

The Engineers Council shall cause to be struck from the Register of Engineers any entry which has been fraudulently made.

42. Additional Measures

Notwithstanding sections 37 to 41, the Engineers Council may take any other disciplinary action it considers appropriate, in the interest of maintaining the standards and integrity of the profession.

43. Commencement of Measure

A disciplinary measure imposed by the Engineers Council under this Part has effect immediately upon written notice being given to the engineer or at such time as the Engineers Council indicates in writing.

PART VII**REVIEW AND APPEAL****44. Professional Regulation Review Tribunal**

The Professional Regulation Review Tribunal established under section 44 of the Architects Profession Act, 2018 is authorised to review decisions of the Engineers Council upon the application of a person who alleges that he or she has been aggrieved by a particular decision.

45. Application for Review

(1) An applicant must apply to the Tribunal for a review of a decision of the Engineers Council within thirty days of being informed of that decision.

(2) Subject to subsection (3), an applicant may apply to review any decision of the Engineers Council by which the applicant is aggrieved including a decision to –

- (a) refuse to register an applicant as an engineer;
- (b) suspend or cancel the registration of an applicant;
- (c) suspend or cancel the applicant's licence to practise; or
- (d) impose a disciplinary measure against the applicant.

(3) A review under this section shall not be conducted in respect of a decision to refuse an application for registration or a licence to practise if the refusal is as a result of the applicant's failure to provide satisfactory evidence to the Engineers Council to show that he is qualified or that he is fit and proper to be registered as an engineer or to be issued a licence to practise as an engineer.

46. Suspension of Decision Pending Review

(1) An Engineer who has filed an application for review may, in writing, request the Engineers Council to suspend the enforcement of its decision pending the determination of a review by the Tribunal.

(2) In determining whether to grant the request under subsection (1), the Engineers Council shall consider the extent to which injury to any person is likely pending review and the potential for restitution in the event of injury.

47. Decisions of the Tribunal

(1) Where the Tribunal has conducted a review of a decision of the Engineers Council to refuse to register or issue a licence to practise to an applicant, the Tribunal may –

- (a) direct the Engineers Council to –
 - (i) effect the registration or issue a licence to the applicant;
 - (ii) reconsider the application for registration or the issue of a licence; or
 - (iii) do such thing as is appropriate; or
- (b) declare that the decision of the Engineers Council is reasonable or justifiable.

(2) Where the Tribunal has conducted a review of a decision of the Engineers Council to impose a disciplinary measure against an Engineer, the Tribunal may do one or more of the following –

- (a) confirm the decision of the Engineers Council;
- (b) set aside the decision of the Engineers Council;
- (c) direct that the disciplinary proceedings be re-conducted;
- (d) set aside the penalty imposed and substitute another penalty;
- (e) order the applicant for the review to pay to the Engineers Council the costs of the review; or
- (f) direct the Engineers Council to do such thing as is appropriate.

48. Appeal

A decision of the Tribunal, other than a decision with respect to the entitlement of a person to be registered, may be appealed to a Judge in Chambers within such time and in such form as may be prescribed by rules of Court.

PART VIII

OFFENCES

49. False or Fraudulent Representations

A person who –

- (i) makes,
- (ii) causes to be made
- (iii) willfully procures or attempts to procure

any false or fraudulent representation or declaration, whether oral or written, for the purpose of obtaining registration or a licence to practise for himself or another person commits an offence and is liable on conviction on indictment to a fine of \$25,000. or to imprisonment for 2 years or to both such fine and imprisonment.

50. Wrongful Use of Title

A person who, while not being an Engineer –

- (a) uses any name, title or other description which suggest, implies or is calculated to imply that the person is a registered engineer or is recognised under any law of Antigua and Barbuda or another country as a person authorized and qualified to practise as an engineer;
- (b) assumes or uses any title or prefix which suggests that the person is an engineer;
- (c) advertises or holds himself out as a person authorised or qualified to practise as an engineer

commits an offence and is liable on conviction on indictment to a fine of \$50,000. or to imprisonment for 2 years or to both such fine and imprisonment.

51. Offence to Practice without Licence

(1) A person shall not practice as an engineer in Antigua and Barbuda unless he holds a licence to practice issued by the Engineers Council.

(2) A person who practices engineering without a licence to practise issued under this Act commits an offence and is liable on conviction on indictment to a fine of \$50,000. or to imprisonment for 2 years or to both such fine and imprisonment.

52. Fraudulently holding out of self to be Holder of Licence

A person who fraudulently holds himself out to be the holder of a valid license to practice issued under this Act commits an offence and is liable on conviction on indictment to a fine of \$50,000. or to imprisonment for 2 years or to both such fine and imprisonment.

**PART IX
MISCELLANEOUS**

53. Recovery of Fees and Costs

(1) person claiming to be, or describing himself as or acting in the capacity of an engineer is not entitled to make demand for or recover fees or charges for engineering services unless he is registered and is the holder of a licence to practise issued under this Act.

(2) A registered engineer who holds a licence to practise is entitled to demand and recover, in any court with full costs of suit, reasonable charges for professional services.

54. Limitation of Actions

A person duly registered under this Act or the holder of a licence issued under this Act shall not be liable in any action for professional misconduct, negligence or mal-practice in respect of professional services rendered by him unless such action is commenced within three years from the last day on which such engineering services were provided.

55. Notification of Action or Trial

(1) An engineer against whom a civil action has been commenced in respect of the provision of engineering services shall immediately notify the Engineers Council –

- (a) of the commencement of the civil suit;
- (b) of the outcome of the civil suit; and
- (c) of the terms of any Order of the court or terms of any settlement reached between the parties.

(2) An engineer who has been charged with an indictable offence shall notify the Engineers Council that he has been so charged, and if the indictable charge relates to an offence committed in contravention of the provisions of this Act, the Engineers Council shall take the appropriate disciplinary measure.

56. Certificate to be signed by Registered Engineers

Upon commencement of this Act, no certificate or other document which is required by any written law to be signed by an engineer shall be valid unless the person signing it is registered under this Act.

57. Certificate by Chairperson and Registrar prima facie evidence

In all cases where proof of registration or licensing under this Act is required to be made, the production of a certificate under the hand of both the Chairperson of the Engineers Council and the Registrar showing that the person therein named is duly registered or is a holder of a licence to practise, shall be sufficient evidence in a court or otherwise of the registration or licensing of that person.

58. Confidentiality

(1) Every member of the Engineers Council or a committee of the Engineers Council, the Registrar or any person acting under the authority of any of them shall preserve secrecy with respect to all matters that come to their knowledge in the course of performing their duties, employment, inquiry or investigation under this Act and shall not communicate such matters to any other person except –

- (a) as required for the administration of this Act;
- (b) with the consent of the person to whom the information relates.

(2) A person referred to in subsection (1) shall not be required to give testimony in any civil or criminal proceedings with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except

- (a) in proceedings concerning an offence under or other contravention of this Act;
- (b) upon the order of a Judge of the High Court in a matter before the High Court.

59. Exemption from Liability

Nothing done by any member of the Engineers Council or a Committee, the Registrar or any person acting under the authority of any of them where such thing was done bona fide for the purpose of giving effect to this Act shall subject that person, in a personal capacity, to any action, liability, claim or demand.

60. Fees and other Funds of the Council

(1) Subject to subsection (2), all fees and monies received by the Engineers Council in accordance with this Act, shall be retained by the Engineers Council and managed and used by the Engineers Council for the performance of its functions.

(2) Money received as premiums for or in respect of a professional liability insurance scheme administered and maintained pursuant to section 29(3) shall not be co-mingled with other funds of the Engineers Council.

61. Rules and Regulations

(1) The Minister, on the advice of Engineers Council, may make Regulations for carrying into effect this Act.

(2) The Engineers Council may make rules in respect of the professional conduct of engineers and fitness to practice as an engineer.

(3) The Minister may, on the advice of the Engineers Council, amend the Schedules to the Act.

62. Repeal and Savings

(1) The Engineers (Registration) Act, Cap. 153 is hereby repealed.

(2) Any regulations passed or action taken under the Engineers (Registration) Act, Cap. 153 prior to the commencement of this Act shall continue with full legal effect until regulations have been enacted under this Act.

FIRST SCHEDULE

[Section 5]

Constitution of the Antigua Barbuda Council of Engineers

1. The Engineers Council shall consist of ten members of which –

- (a) six members shall be elected from the Engineers Association; and
- (b) the other four members shall be appointed as follows—
 - (i) the Director of the Public Works Department, provided he is an engineer, or in the alternative a Senior Engineer in the Public Works Department appointed by the Director, as an ex officio member;
 - (ii) a representative of the National Accreditation Board;
 - (iii) a representative of a tertiary institution which provides training or programmes in engineering, if such an institution operates in Antigua and Barbuda; and

- (iv) an attorney-at-law employed in the Attorney General's Office and nominated by the Attorney General.

2. The six elected members of the Engineers Council shall hold office for a period three years from the date on which they were elected, but shall be eligible for re-election.

3.(1) A Chairperson and Deputy Chairperson of the Council shall be elected from among the members of the Engineers Association to serve for a period of three years.

(2) The Chairperson, or in his absence, the Deputy Chairperson, shall preside at the meetings of the Council.

4. The Council shall –

- (1) meet regularly and at least once in every three months;
- (2) meet at such other times as are necessary to conduct its business;
- (3) convene its meetings upon seven (7) clear days' notice in writing of the meeting to its members.

5. At the written request of not less than three members of the Council, the Chairperson, or in his absence the Deputy Chairperson, may summon an emergency meeting of the Council at seven (7) clear days' notice in writing.

6. Six members of the Council shall constitute a quorum.

7. Every member of the Council shall have one vote but the Chairperson shall have a casting vote whenever the voting is equal.

8. A member of the Council who is absent from three consecutive meetings without the permission of the Chairperson shall lose his right to vote in the next three meetings following.

9. A vacancy in the Council shall be filled in the same manner as the original appointment and the validity of the proceedings of the Engineers Council shall not be affected by a vacancy in the Council or by a defect in the appointment of a member.

10. Minutes of the meetings of the Engineers Council shall be recorded by a Secretary to be appointed for the purpose and copies circulated to the members of the Council two weeks following every meeting.

SECOND SCHEDULE

[Section 9 (6)]

Proceedings before the Complaints and Investigations Committee

1. Whenever a complaint is received by the Engineers Council, the complaint shall be promptly referred to the Complaints and Investigations Committee.

2. Whenever a matter is referred to or otherwise received by the Complaints and Investigations Committee, the Committee shall promptly notify, in writing, the engineer who is the subject of the complaint to be investigated.

3. The notice referred to in paragraph 2 shall –

- (a) identify the matter that is to be investigated;
- (b) stipulate the right of the engineer to submit to the Complaints and Investigations Committee, in writing, any explanation or representation he wishes to make as well as any document or other information, concerning the matter that he wishes to submit to the Committee;
- (c) indicate that any submission must be made by a date not later than 28 days from the date of the notice or such other time as stipulated by the Committee

4. The Complaints and Investigations Committee shall examine all documents and other information relating to the complaint that are submitted to it and shall make every reasonable effort to verify the information and ascertain all the facts that are relevant to a determination of the matter.

5. The Complaints and Investigations Committee may hear evidence from any person, whether or not the person is a direct party concerned in the matter.

6. Following a consideration of the information submitted to it, the Complaints and Investigations Committee may solicit clarifications, in writing, with respect to any statement, representation or other information submitted to the Committee.

7. When the Complaints and Investigation Committee is conducting an investigation other than a preliminary investigation –

- (a) the Committee shall invite both parties concerned in the matter to appear before the committee to make representations or to answer questions respecting the matter;

- (b) the Committee may at the request of a party, permit the party to appear before the Committee.

8. When a party appears before the Committee pursuant to paragraph 7(b), the Committee shall give to the other party –

- (a) notice to the other party regarding the appearance;
- (b) a copy, extract or representation of any statement or representation made to the Committee at that appearance; and
- (c) the opportunity to appear before the Committee in respect of any statement or representation made at that appearance.

9. An engineer who appears before the Complaints and Investigations Committee shall have the right to be represented by an Attorney-at-Law.

10. The Complaints and Investigations Committee shall report its findings, decision and recommendation to the Engineers Council.

11. Where the Complaints and Investigation Committee has conducted a preliminary investigation, its report to the Engineers Council may recommend that

- (a) no further investigation be conducted; or
- (b) the matter be referred to the Disciplinary Committee;
- (c) such other steps be taken as it considers appropriate in the circumstances.

THIRD SCHEDULE

[Section 10(5)]

PROCEEDINGS BEFORE THE DISCIPLINARY COMMITTEE

1. The Engineers Council shall serve on the engineer against who disciplinary proceedings are to be instituted a notice which shall –
 - (a) specify, in the form of a charge, the matters into which the inquiry is to be held; and
 - (b) state the time and place at which the enquiry is proposed to be held
2. Except with the consent of the engineer, an inquiry shall not be fixed for a date earlier than days after the date on which the notice is served.
3. The notice shall be served personally or by pre-paid registered post on the engineer at the professional address shown on the Register of Engineers.
4. In any case where there is a complainant, a copy of the notice shall also be sent to the complainant.
5. If, after a complaint has been referred to the Disciplinary Committee for investigation, it appears to the Committee that the disciplinary proceeding should not be held, the Council shall notify the complainant, if any, and the engineer of that fact.
6. An engineer shall be entitled to receive copies of, or to be allowed access to, any documentary evidence relied on for the purpose of the disciplinary proceeding.
7. The engineer shall have the right to be represented by an attorney-at-law in any disciplinary proceedings instituted against him.
8. All matters brought before the Committee shall be determined by a panel of not less than three (3) members.
9. If an engineer does not appear at the date fixed for the hearing of the case, the Disciplinary Committee may, if it is satisfied that a notice of enquiry has been served on the engineer, proceed with the enquiry in his absence and the absence of his attorney.
10. Where witnesses are examined by the Disciplinary Committee, the engineer shall be given an opportunity of attending and of putting questions to the witnesses in his own behalf; and no documentary evidence shall be used against him unless he has previously been supplied with copies thereof or given access thereto.

11. The engineer shall be permitted to give evidence, call witnesses and make submissions orally or in writing in his own behalf.

12. The Disciplinary Committee may call additional witnesses and may adjourn the proceedings to another convenient time or place.

13. The testimony of witnesses shall be taken under oath, which the Chairperson of the Disciplinary Committee is authorised to administer, and there shall be a right to examine, cross-examine and re-examine witnesses.

14. On the application of –

- (a) any party to the proceedings;
- (b) the Chairperson of the Disciplinary Committee; or
- (c) the counsel for the Disciplinary Committee,

the Registrar may issue subpoenas for the purposes of procuring the attendance of witnesses, the giving of testimony and the production of documents before the Disciplinary Committee.

15. The rules of evidence in the proceedings and penalties in the case of disobedience to any subpoena, shall be the same as in civil cases in the Supreme Court.

16. The Disciplinary Committee shall have the proceedings and the evidence

- (a) written, transcribed and certified by a court transcriber; or
- (b) recorded by a sound recording machine, and transcribed and certified by a court transcriber.

17. It is the duty of the engineer whose conduct or fitness to practise is being inquired into, to appear at the inquiry, but in event of non-attendance by that engineer, the Disciplinary Committee, upon proof by an affidavit of the service of notice, may proceed with the inquiry, and without further notice to the engineer make a report of its findings and take such other action as it is authorised to take under this Act.

18. If, having heard the evidence in support of the charges, the Disciplinary Committee is of the opinion that the evidence is insufficient it may dismiss the charges without calling upon the engineer for his defence.

19. On the conclusion of the enquiry, the Disciplinary Committee shall submit a report of its findings, decision, reasons for the decision and recommendations to the Engineers Council.

FOURTH SCHEDULE

[Section 14]

Distinction between the Practice of Engineering and Architecture

1. An engineer may not provide a complete, comprehensive set of building plans for a building designed for human use or occupancy unless the plans and specifications are prepared by, or under the supervision of an architect.

2. An engineer is responsible for –

- (a) the completion of engineering plans and specifications of building works, projects and designs; and
- (b) the engineering aspects of –
 - (i) any public utility;
 - (ii) industrial, harbour, drainage, irrigation, sewage sanitation and hydraulic works;
 - (iii) industrial processes;
 - (iv) railways, tramways, bridges, tunnels, roads, canals and river improvements;
 - (v) lighthouses, wet, dry and floating docks;
 - (vi) cranes, dredges, hoists, lifts and winches;
 - (vii) waterworks;
 - (viii) incinerations;
 - (ix) power transmission, electric lighting and electrical communications systems and equipment;
 - (x) an electrical apparatus or machinery;
 - (xi) electronics;
 - (xii) mineral property of mining operations of any kind;
 - (xiii) smelters, refineries, metallurgical machinery and equipment;
 - (xiv) boilers and their auxiliaries;
 - (xv) steam engines, hydraulic turbines, pumps, internal combustion engines, solar

- powered engines and other mechanical structures;
- (xvi) chemical machinery;
- (xvii) airports;
- (xviii) all ships of more than 50 tons gross classified or unclassified, their propulsion units and safety of life at sea equipment;
- (xix) building –
 - (a) consisting of, or designed for more than 1 storey;
 - (b) constructed or used for the purpose of carrying on a business, or
 - (c) being places to which the public have or may have access;
- (xx) any other operation, works or matter related to the items contained in this Schedule.

(c) In this section, the term "engineering plans and specifications" means –

- (i) plans for a structural, mechanical, electrical, electronic, fire suppression, or geotechnical systems in a building;
- (ii) specifications of structural elements and connections of a building;
- (iii) foundation design;
- (iv) hydrologic management calculations and design of surface water control and detention necessary for compliance with ordinances and regulations;
- (v) design of building drain and waste system plumbing, fresh water plumbing, graywater systems, and mechanical aspects of moving water in and out of a structure, other than simple roof drainage;
- (vi) evaluation of structural framing members before the addition of roof-mounted equipment or a heavier roof covering;
- (vii) design of changes in roof pitch by the addition of structural framing members;
- (viii) evaluation and repair of damaged roof structural framing;
- (ix) design of electrical and signal and control systems;

- (x) shop drawings by manufacturers or fabricators of materials and products to be used in the building features designed by the engineer; and
- (xi) specifications listing the nature and quality of materials and products for construction of features of the building elements or systems designed by an engineer.

3. The preparation of plans and specifications for the following is within the scope of both the practice of engineering and architecture:

- (a) site plans depicting the location and orientation of a building on the site based on –
 - (i) a determination of the relationship of the intended use with the environment, topography, vegetation, climate, and geographic aspects; and
 - (ii) the legal aspects of site development, including setback requirements, zoning and other legal restrictions, and surface drainage;
- (b) the depiction of the building systems, including structural, mechanical, electrical, and plumbing systems, in:
 - (i) plan views;
 - (ii) cross-sections depicting building components from a hypothetical cut line through a building; and
- (c) life safety plans and sheets, including accessibility ramps and related code analyses; and
- (d) roof plans and details depicting the design of roof system materials, components, drainage, slopes, and directions and location of roof accessories and equipment not involving structural engineering calculations.

4. The following activities may be performed by either an engineer or an architect:

- (a) programming for construction projects, including:
 - (i) identification of economic, legal, and natural constraints; and
 - (ii) determination of the scope of functional elements;
- (b) recommending and overseeing appropriate construction project delivery systems;

- (c) consulting with regard to, investigating, and analyzing the design, form, materials, and construction technology used for the construction, enlargement, or alteration of a building or its environment; and
- (d) providing expert opinion and testimony with respect to issues within the responsibility of the engineer or architect.

FIFTH SCHEDULE

[Section 23]

Countries for Recognised Registration

1. Austria
2. Barbados
3. Belgium
4. Belize
5. Bulgaria
6. Commonwealth of Bahamas
7. Commonwealth of Dominica
8. Croatia
9. Cyprus
10. Czech Republic
11. Denmark
12. Estonia
13. France
14. Finland
15. German
16. Greece
17. Grenada
18. Hungary
19. Ireland
20. Italy
21. Jamaica
22. Latvia
23. Lithuania
24. Luxembourg
25. Malta
26. Montserrat
27. Netherlands
28. Poland
29. Portugal
30. Republic of Guyana
31. Republic of Haiti
32. Republic of Suriname
33. Republic of Trinidad & Tobago
34. Romania
35. St. Kitts & Nevis
36. Slovak Republic
37. St. Lucia
38. Slovenia
39. St. Vincent & the Grenadines

40. Spain

41. Sweden

42. The United Kingdom”

Passed by the House of Representatives
on the 13th day of September, 2018.

Gerald Watt, Q.C.,
Speaker

Ramona Small,
Clerk to the House of Representative

Passed by the Senate on the 28th
day of September, 2018.

Alicia Williams-Grant
President

Ramona Small,
Clerk to the Senate