

## **THE PROFESSIONAL LAND SURVEYORS' COUNCIL BILL**

**Bill No. 6 of 2014**

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The following Bill which is set out for introduction into the National Assembly is published for general information.

## **THE PROFESSIONAL LAND SURVEYORS' COUNCIL BILL**

**(No. VI of 2014)**

### **Explanatory Memorandum**

The object of this Bill is to provide for the establishment of the Professional Land Surveyors' Council.

2. The Council will, *inter alia* –
  - (a) regulate and control the profession of land surveyors;
  - (b) register professional land surveyors;
  - (c) enter, in the Register of professional land surveyors, the name, address, qualification and other particulars of a professional land surveyor;
  - (d) exercise and maintain discipline in the profession of land surveyors, with the assistance and support of such Professional Conduct Committee as may be set up;
  - (e) disseminate literature on developments in the field of land surveying or any other related matter to land surveyors; and

- (f) promote advancement in the field of land surveying.

**Dr. A. T. KASENALLY, G.O.S.K., F.R.C.S.**

*Minister of Housing and Lands*

18 July 2014

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**THE PROFESSIONAL LAND SURVEYORS' COUNCIL BILL**

(No. VI of 2014)

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### **A BILL**

**To establish the Professional Land Surveyors' Council and to provide  
for better regulation of the profession of land surveyors**

ENACTED by the Parliament of Mauritius, as follows –

#### **PART I – PRELIMINARY**

##### **1. Short title**

This Act may be cited as **the Professional Land Surveyors' Council Act 2014.**

##### **2. Interpretation**

In this Act –

“Chairperson” means the Chairperson of the Council;

“Chief Surveyor” means the Chief Surveyor of the Ministry;

“Code of Practice” means such Code of Practice as may be prescribed under section 48(3);

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

“Continuous Professional Development programmes” means programmes, courses, lectures, seminars or conferences in relation to the profession of land surveyors;

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

“delegated power” means the power 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 land surveyor appointed by the Public Service Commission;

“financial year” has the same meaning as in the Finance and Audit Act;

“Government surveyor” means a professional land surveyor of the Ministry;

“investigation” means a preliminary investigation under section 26(1);

“land surveying” –

(a) means to survey a plot of land;

(b) includes the drawing up of a memorandum of survey, survey report or plan in relation to a plot of land,

as per the Cadastral Survey Act;

“land surveyor” means a person who is issued with a commission by the President under section 19(6);

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

“member” –

(a) means a member of the Council; and

(b) includes the Chairperson and Vice-chairperson;

“memorandum of survey” has the same meaning as in the Cadastral Survey Act;

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

“officer” –

(a) means an officer appointed under section 14; and

(b) includes the Registrar;

“plot of land” has the same meaning as in the Cadastral Survey Act;

“Professional Conduct Committee” means a Professional Conduct Committee set up under section 28;

“professional land surveyor” means a person who is registered as such under section 21;

“Register” means the register of professional land surveyors, kept under section 22;

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

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

“survey report” has the same meaning as in the Cadastral Survey Act;

“trainee land surveyor” means a person enrolled as such under section 25;

“Vice-chairperson” means the 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 Land Surveyors’ 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 of Council**

The Council shall –

(a) regulate and control the profession of land surveyors;

(b) promote advancement in the field of land surveying.

### **5. Functions of Council**

The Council shall –

- (a) enter, in the Register, the name, address, qualification and other particulars of a professional land surveyor;
- (b) exercise and maintain discipline in the profession of land surveyors –
  - (i) in relation to a professional land surveyor who is appointed by the Public Service Commission and 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 professional land surveyor;
- (c) ensure that the Code of Practice is complied with by professional land surveyors;
- (d) disseminate literature on developments in the field of land surveying or any other related matter to land surveyors;
- (e) provide technical assistance to professional land surveyors;
- (f) co-operate with any other institution having objects wholly or partly similar to its objects;
- (g) monitor the standard of courses of instruction and training available to trainee land surveyors prior to their registration;
- (h) approve, organise or cause to be organised Continuous Development Programmes or any other programme, course, lecture, seminar or conference for the purpose of updating knowledge and skills in the field of land surveying;
- (i) publish an annual list of professional land surveyors;
- (j) keep a record of its proceedings and decisions; and



- (k) advise the Minister on any matter relating to the profession of land surveyors.

## **6. Powers of Council**

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

- (a) enter into any contract or other agreement;
- (b) set up any committee;
- (c) sell or exchange any property;
- (d) subject to section 37, make or receive any grant or donation;
- (e) borrow money and raise funds;
- (f) collect or receive any fee, rental, interest or other sum which may lawfully accrue to it; and
- (g) do such acts and things as may be necessary for the purposes of this Act.

## **PART III – MANAGEMENT OF COUNCIL**

### **7. Composition of Council**

- (1) The Council shall consist of –
  - (a) the Chief Surveyor;
  - (b) 4 professional land surveyors, to be appointed by the Minister from among Government land surveyors posted at the Ministry;

- (c) 4 other professional land surveyors, to be elected in the manner specified in the First Schedule;
- (d) the supervising officer or his representative; and
- (e) a representative of the Attorney-General's Office.

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

(3) A member, other than a member referred to in subsection (1)(d) or (e), shall, subject to section 8, hold office for a period of 2 years and shall be eligible for reappointment or re-election, as the case may be.

(4) Every member shall be paid such fee or allowance as the Council may determine.

## **8. Vacancy in membership of Council**

(1) A member, other than a member referred to in section 7(1)(d) or (e), shall cease to hold office –

- (a) on completion of his term of office; or
- (b) on his resignation, by notice in writing given 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 a member referred to in section 7(1)(d) or (e), who –

- (a) is suspended as a professional land surveyor or whose appointment as a land surveyor is cancelled under this Act;

- (b) is absent, without leave of the Council, from 3 consecutive meetings of the Council;
- (c) becomes insolvent, assigns his estate for the benefit of his creditors or makes an arrangement with his creditors;
- (d) commits an act of professional misconduct or 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;
- (e) is convicted of an offence of such nature as, in the opinion of the Council, renders him unfit to be a member;
- (f) is suffering from such mental or physical impairment as, 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 minor 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, in the case of a member –

- (a) appointed under section 7(1)(b), by a fresh appointment; or

- (b) elected under section 7(1)(c), by appointing the professional land surveyor who obtained the highest number of votes after the elected professional land surveyor at the election held immediately before the vacancy arose.

(6) A person appointed under subsection (5) shall hold office for the remainder of the term of office of the person whom he replaces.

## **9. Meetings of Council**

(1) The Council shall meet as often as the Chairperson may determine but at least once every month.

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

(3) At a meeting of the Council, 7 members shall constitute a quorum.

(4) (a) The Chairperson or, in his absence, the Vice-chairperson shall chair a meeting of the Council.

(b) Where the Chairperson and Vice-chairperson are absent from a meeting of the Council, the members present shall elect one of the members referred to in section 7(1) (a), (b) or (c) 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) Any request made under paragraph (a)(ii) shall specify the purpose for which the special meeting is to be convened.

(6) The Council may, where it considers necessary, co-opt such other persons with relevant expertise not already available to the Council to assist it in relation to any matter before it.

(7) At any meeting of the Council, each member shall have one vote on a matter in issue and in the event of an equality of votes, the person presiding shall have a casting vote.

(8) Subject to this section, the Council shall regulate its meetings and proceedings in such manner as it may determine.

## **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 an investigation.

(2) A committee shall consist of not less than 3 members and such other persons as 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 may determine;

(b) meet as and when required by the Council; and

(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 the member by blood or marriage, has a pecuniary or other material interest in relation to any matter before the Council or a committee, that member –

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

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of proceedings of the meeting convened to discuss that matter or the committee.

## **12. Registrar**

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

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

(3) The Registrar shall act as Secretary to the Council and –

- (a) shall, for every meeting of the Council –
  - (i) give notice of the meeting to the members;
  - (ii) prepare and attend the meeting;
  - (iii) keep minutes of proceedings of the meeting; and

(b) 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 of the Council.

(5) The Registrar shall have such other functions as may be conferred on him by the Council.

(6) Where the Registrar is for any reason unable to perform his functions, the Council may appoint another professional land surveyor 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 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.

#### **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 LAND SURVEYOR**

#### **Sub-Part A – Practice of Land Surveying**

#### **18. Land surveying**

(1) No person shall practise land surveying in Mauritius unless he is registered as a professional land surveyor with the Council.

(2) (a) A person who wishes to be registered as a professional land surveyor shall –



- (i) by a commission issued by the President, be appointed as a land surveyor;
- (ii) subject to paragraph (b), furnish the security referred to in section 20 to the satisfaction of the Council; and
- (iii) pay to the Council such registration and annual fee as may be prescribed.

(b) Paragraph (a)(ii) shall not apply to a Government surveyor or a land surveyor employed by a statutory corporation or a local authority.

(3) Nothing in this Act shall prevent –

- (a) a person from working as an employee or subordinate of a professional land surveyor where the work is done under the direct responsibility and supervision of that professional land surveyor;
- (b) a person from practising his profession, trade or calling as a quantity surveyor, nautical surveyor or marine surveyor;
- (c) a Survey Technician or Trainee Surveyor, who is posted at the Ministry, to practise land surveying in accordance with his scheme of service.

### **Sub-Part B – Registration as Professional Land Surveyor**

#### **19. Commission by President**

(1) No person shall be entitled to be appointed as a land surveyor by the President unless –

- (a) he satisfies the Council that he –

- (i) has attained the age of 20;
  - (ii) has not been convicted of an offence involving fraud or dishonesty in any country;
  - (iii) has not been disqualified or deregistered from practising land surveying on account of professional misconduct or negligence, fraud, dishonesty or breach of a code of practice in any country; and
  - (iv) does not suffer from any mental impairment which is likely to hamper the discharge of his duties in land surveying;
- (b) he holds a diploma in land surveying from the University of Mauritius or any prescribed qualification in land surveying;
- (c) where he is the holder of a diploma in land surveying from the University of Mauritius, he –
- (i) has throughout his course of study of land surveying been employed by and worked under the direct supervision of a professional land surveyor; and
  - (ii) has worked full time under the direct supervision of a professional land surveyor for a further period of one year after obtaining his diploma in land surveying;
- (d) where he is the holder of a prescribed qualification in land surveying –
- (i) he has worked full time under the direct supervision of a professional land surveyor for a period of not less than 2 years after obtaining his qualification in land surveying and

- (ii) he has knowledge of the enactments specified in the Second Schedule; and
  - (e) he has prepared a cadastral survey plan, in accordance with survey standards set out in the Cadastral Survey Act, of a region of not less than 64 hectares assigned to him by the Chief Surveyor.
- (2) (a) A person who wishes to be appointed as a land surveyor 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 -
- (i) by the applicant's birth certificate and National Identity Card, or any other acceptable evidence of his identity, and in the case of a non-citizen, his passport;
  - (ii) by the original or a certified copy of the applicant's diploma in land surveying from the University of Mauritius or prescribed qualification in land surveying;
  - (iii) where the applicant is the holder of a diploma in land surveying from the University of Mauritius, by evidence that he has -
    - (A) throughout his course of study in land surveying been employed by and worked under the direct supervision of a professional land surveyor; and
    - (B) worked full time under the direct supervision of a professional land surveyor for a further period of one year after obtaining his diploma in land surveying;
  - (iv) where the applicant is the holder of a prescribed qualification in land surveying, by evidence that he has -

- (A) worked full time under the direct supervision of a professional land surveyor for a period of not less than 2 years after obtaining his qualification in land surveying; and
  - (B) provided the Attorney-General with evidence of his knowledge of the enactments specified in the Second Schedule;
- 
- (v) by a report of all technical work he has been involved in during the time when he has worked with a professional land surveyor after obtaining his diploma or prescribed qualification in land surveying;
  - (vi) by a cadastral survey plan, made in accordance with survey standards set out in the Cadastral Survey Act, of a region of not less than 64 hectares assigned to him by the Chief Surveyor;
  - (vii) by such processing fee as may be prescribed; and
  - (viii) by such additional document or information as the Registrar may require.

(3) An applicant shall not be required to submit particulars under subsection (2)(b) (iii), (iv)(A), (v) and (vi), where he satisfies the Council that he is –

- (a) registered as a professional member in the field of land surveying with the Royal Institution of Chartered Surveyors of the United Kingdom; or
- (b) a licensed surveyor from Australia, New Zealand or such other country or body as may be prescribed.

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

(b) The Council shall, in assessing the application made under subsection (2), call the applicant for an interview.

(5) (a) The Council may 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, through the Minister, make a recommendation to the President to appoint the applicant as a land surveyor.

(6) The President shall, on the recommendation under subsection (5)(b), appoint, by a commission issued by him, the applicant as a land surveyor.

## **20. Security**

(1) A land surveyor, other than a Government surveyor or a land surveyor employed by a statutory corporation or a local authority, who wishes to be registered by the Council as a professional land surveyor shall furnish a security in the sum of 50,000 rupees or such other amount as may be prescribed.

(2) The security referred to in subsection (1) shall, subject to the approval of the Attorney-General, be furnished –

- (a) by cash deposited with the Accountant-General;
- (b) by means of a policy of insurance issued by a company registered under the Insurance Act; or
- (c) by means of a mortgage on immovable property under the Public Officers' Security Act.

(3) Where a land surveyor furnishes security, otherwise than in cash, he shall cause to be produced to the Accountant-General –

- (a) a policy of insurance issued under subsection (2)(b) and every receipt witnessing the payment of any premium payable under the policy; or
- (b) a certificate from the Conservator of Mortgages that a mortgage under subsection (2)(c) has been inscribed.

(4) Where a land surveyor furnishes security, that security may be applied, where necessary, for the satisfaction of –

- (a) a judgment debt against him arising out of a matter connected in the discharge of his functions as a professional land surveyor; or
- (b) any penalty incurred by him under this Act.

(5) Subject to subsection (6), where security –

- (a) is furnished in accordance with subsection (2)(b); and
- (b) is applied for any purpose specified in subsection (4),

no claim shall be receivable in respect of any sum paid by the Accountant-General to any person.

(6) Subsection (5) shall not prejudice any right of a professional land surveyor to recover from any person any sum paid out by the Accountant-General under that subsection.

(7) Where the Accountant-General makes any payment under subsection (4) out of the security furnished, he shall –

- (a) give written notice to the professional land surveyor; and
- (b) require the professional land surveyor to deposit a further amount as security being an amount equal to the payment made.

## **21. Registration as professional land surveyor**

Where a land surveyor complies with section 18(2)(a)(ii) and (iii), the Council shall register him as a professional land surveyor.

### **Sub-Part C – Register of Professional Land Surveyors**

## **22. Register**

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

(2) Where the Council registers a professional land surveyor under section 21, the Council shall enter in the Register, the name, address, qualification and other particulars of that professional land surveyor.

(3) The Registrar shall, *inter alia*, enter in the Register –

- (a) any alteration in the particulars of a professional land surveyor;
- (b) where a professional land surveyor is suspended or is given a warning, an annotation to that effect; and
- (c) such other particulars as the Council may determine.

(4) (a) Where a professional land surveyor obtains any additional qualification in the field of land surveying, the Council may, on application made by him, add the additional qualification to his particulars in the Register.

(b) An application made under paragraph (a) shall be accompanied by such fee as may be prescribed.

(5) The Registrar shall, on the advice of the Council, remove from the Register the particulars of a professional land surveyor –

- (a) who passes away;
- (b) who is provided with a guardian or curator under Livre Premier, Titre XI, Chapitres 2 à 4 of the Code Civil Mauricien; or
- (c) whose appointment as a land surveyor is cancelled by the President.

#### **Sub-Part D – Annual Fee and Annual List**

#### **23. Annual fee**

(1) Every professional land surveyor shall, on or before 30 November in 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 land surveyor 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 in the year in respect of which it is due.

(3) (a) Where a professional land surveyor fails to pay the annual fee together with the surcharge required under subsection (2), the Council shall cause the Registrar to remove the name and other particulars of the professional land surveyor from the Register, and that person shall not practise land surveying in Mauritius.

(b) The Council may restore the name and other particulars of the land surveyor on the Register on good cause shown and on payment of the annual fee together with its surcharge.

#### **24. Annual list**



(1) The Registrar shall, not later than the end of February in every year, transmit to the Minister a list of professional land surveyors registered for that year.

(2) The Council shall, not later than 1 March in every year, publish in the *Gazette* an annual list of professional land surveyors for that year.

### **Sub-Part E – Trainee Land Surveyor**

#### **25. Enrolment of trainee land surveyor**

(1) No person shall be enrolled as a trainee land surveyor unless he satisfies the requirements referred to in section 19(1)(b) and (d).

(2) A person who wishes to be enrolled as a trainee land surveyor 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, in relation to the trainee land surveyor, his name, address and other particulars in a register of trainee land surveyors.

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

### **PART V – DISCIPLINE**

#### **26. Preliminary investigation**

(1) The Council may investigate any complaint of –

(a) professional misconduct or negligence;

- (b) a breach of the Code of Practice,

against a professional land surveyor, including a professional land surveyor in respect of whom the Council holds a delegated power.

- (2) Where the Council investigates a complaint, it –

- (a) shall notify the professional land surveyor, whose conduct, act or omission is under investigation, of the nature of the complaint against him;
- (b) may summon and hear the professional land surveyor who shall be given an opportunity of being assisted by a legal representative of his choice;
- (c) may summon and hear witnesses;
- (d) may call for the communication or production of any relevant record, document or article; and
- (e) shall complete its investigation not later than 3 months from the date the investigation starts.

(3) The Council shall, when investigating a complaint, keep a proper record of its proceedings.

(4) (a) 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.

(b) 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 paragraph (a).

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

(b) A member who –

- (i) is closely related to a professional land surveyor, including a professional land surveyor in respect of whom the Council holds a delegated power, whose conduct, act or omission is under investigation; or
- (ii) has any pecuniary or other personal interest in the subject matter of an investigation,

shall disclose his relationship or interest, as the case may be, and refrain from participating in the investigation.

(c) The committee may exercise any of the powers of the Council under subsection (2)(b), (c) or (d).

## **27. Disciplinary proceedings**

(1) Where, after an investigation, the Council considers it necessary to prefer charges against a professional land surveyor, it shall forward to the professional land surveyor a statement of those charges and call upon him to state in writing, before such date as the Council may specify, any grounds on which he relies to exculpate himself.

(2) Where the professional land surveyor 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 29, institute disciplinary proceedings against him before a Professional Conduct Committee.

## **28. Professional Conduct Committee**

(1) The Council may, for the purpose of section 27, set up a Professional Conduct Committee which shall consist of –

- (a) a chairperson, who is or has been a Judge or Magistrate, or is a barrister of not less than 10 years' standing; and
- (b) 2 assessors, who shall be professional land surveyors with not less than 12 years' experience and who are not members.

(2) The chairperson 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 Registrar shall keep the minutes of proceedings of every meeting of the Professional Conduct Committee.

(4) (a) Where the chairperson or an assessor of a Professional Conduct Committee is related by blood or marriage to a professional land surveyor who is the subject of disciplinary proceedings, the chairperson 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 the chairperson or an assessor of the Professional Conduct Committee 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.

## **29. Proceedings of Professional Conduct Committee**

(1) A Professional Conduct Committee shall meet at such time and place as the chairperson of the committee may determine.

(2) Where disciplinary proceedings are instituted under section 28, the Professional Conduct Committee shall inquire into the charges preferred against the professional land surveyor.

(3) A Professional Conduct Committee may –

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

(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) (a) 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.

(b) 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 paragraph (a).

## **30. 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 opinion of the Professional Conduct Committee, 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 land surveyor, other than a professional land surveyor in respect of whom the Council holds a delegated power, and states that the charge has been proved, the Council shall –

(i) administer him a warning or a severe warning; or

(ii) through the Minister, make a recommendation to the President to –

(A) suspend his appointment as a land surveyor for a period not exceeding 2 years; or

(B) cancel his appointment as a land surveyor.

(b) Where the report is in relation to a professional land surveyor 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 land surveyor, in respect of whom the Council holds a delegated power, is dismissal or retirement in the interest of the public service, the Council shall, through the Minister, make a recommendation to the President to –

(a) suspend his appointment as a land surveyor for a period not exceeding 2 years; or

(b) cancel his appointment as a land surveyor.

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

### **31. Other disciplinary measures**

Without any of the proceedings provided for in sections 28, 31, 32 and 33 being instituted, the Council shall, where a professional land surveyor is convicted of an offence and is serving a sentence of imprisonment or penal servitude, make, through the Minister, a recommendation to the President to –

(a) suspend his appointment as a land surveyor for such time as the President may determine; or

(b) cancel his appointment as a land surveyor.

### **32. Summary proceedings**

Where the Council is satisfied, after having carried out an investigation against a professional land surveyor, other than a land surveyor 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.

### **33. Effect of suspension or cancellation**

The Council shall cause the Registrar –

- (a) to remove from the Register the name and other particulars of any professional land surveyor whose appointment as a land surveyor is cancelled under this Act;
- (b) to give notice of any suspension or cancellation under this Act in the *Gazette* and in 2 daily newspapers.

#### **34. Restoration of name and other particulars to Register**

(1) Where the name and other particulars of a professional land surveyor are removed from the Register in accordance with this Act, the name and other particulars of that person shall not be restored to the Register 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 his name and other particulars to be restored to the Register.

### **PART VI – FINANCIAL PROVISIONS AND ACCOUNTS**

#### **35. 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.

**36. 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 –

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

(b) the Registrar.

**37. Donations**

Article 910 of the Code Civil Mauricien shall not apply to the Council.

**38. Annual report**

(1) The Board shall submit an annual report to the Minister, together with an audited statement of accounts, on the operations of the Council in respect of every financial year.

(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report and audited accounts of the Council before the Assembly.

**39. 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 VII – MISCELLANEOUS**

**40. Official land surveyor not to practise privately**

(1) Subject to subsection (2), no Government surveyor or professional land surveyor employed by a statutory corporation or local authority shall carry out a survey for private parties.

(2) Subsection (1) shall not apply to Rodrigues.

**41. Survey of State land**

(1) (a) No professional land surveyor, other than a Government surveyor, shall carry out the survey of any State land, unless he has been authorised in writing by the Chief Surveyor.

(b) Where a professional land surveyor carries out a survey with the authorisation of the Chief Surveyor, the professional land surveyor shall record the fact in his memorandum of survey, survey report or plan, as the case may be, and the authorisation shall be attached to the original of the memorandum, report or plan which is to be registered under section 13 of the Cadastral Survey Act.

(2) Every professional land surveyor who contravenes subsection (1) shall commit an offence and the memorandum of survey, survey report or plan, as the case may be, made by him shall be null and void.

**42. Professional land surveyors leaving Mauritius**

Any professional land surveyor who intends to leave Mauritius shall, not later than 10 days before his departure, notify his intention to the Council and furnish it with proof that he has complied with section 13 of the Cadastral Survey Act.

**43. Seal of Council**

The seal of the Council shall bear such device as the Council may approve.

#### **44. 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.

#### **45. 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.

#### **46. Review of decision of Council**

(1) A person who is aggrieved by the decision of the Council –

(a) not to grant an application under section 19(5)(a); or

(b) to take any disciplinary measure against him,

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

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

#### **47. Offences**

(1) Any person –

- (a) whose name is not in the Register, or whose appointment as a land surveyor is suspended or cancelled by the President, and who –
- (i) practises land surveying;
  - (ii) takes or uses the name, description or title “Professional Land Surveyor”, “Land Surveyor”, “Registered Land Surveyor”, “Chartered Land Surveyor”, “Authorised Land Surveyor”, “Consulting Land Surveyor” or “Qualified Land Surveyor” or any abbreviation thereof in whatever language, either alone or in connection with any other title, name, word or letter;
  - (iii) holds himself out or conducts himself as a professional land surveyor;
  - (iv) by any wilful act or omission, causes or induces any person to believe that he is a professional land surveyor;
  - (v) demands, sues for or recovers in any Court any charge by way of claim, counter-claim or otherwise in relation to any land surveying services he claims to have provided as a professional land surveyor; or
- (b) who fraudulently procures or attempts to procure appointment as a land surveyor,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

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

(3) Notwithstanding subsection (1)(a)(ii), nothing in this section shall prevent a firm of professional land surveyors from using its name or title containing the words “Land Surveyor”.

- (4) Any person who –
- (a) wilfully 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) obstructs the proceedings of a meeting of the Council or a Professional Conduct Committee;
  - (f) 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; or
  - (g) in any other manner contravenes this Act or regulations made under this Act,

shall commit an offence.

(5) Any person who commits an offence under subsection (4) shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

#### **48. 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) shall be made after consultation with the Council.

(3) Any regulations made under subsection (1) may provide, *inter alia* –

(a) for a Code of Practice;

(b) for rules and guidelines for Continuous Professional Development programmes;

(c) for the levying of fees and the taking of charges;

(d) for the amendment of the Schedules;

(e) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 6 months.

#### **49. Repeal**

The Land Surveyors Act is repealed.

#### **50. Consequential amendments**

(1) The Affidavits of Prescription Act is amended, in section 4(1)(b), by inserting, before the words “land surveyor”, the word “professional”.

(2) The Cadastral Survey Act is amended –

(a) in section 2 –

- (i) in the definitions of “Chief Surveyor” and “Government surveyor”, by deleting the words “Land Surveyors Act” and replacing them by the words “Professional Land Surveyors’ Council Act 2014”;
- (ii) by deleting the definition of “land surveyor”;
- (iii) in the definitions of “fixed boundaries”, “general boundaries”, “memorandum of survey”, “survey mark” and “survey report”, by inserting, before the words “land surveyor”, the word “professional”;
- (iv) by inserting, in the appropriate alphabetical order, the following new definition –

“professional land surveyor” has the same meaning as in the Professional Land Surveyors’ Council Act 2014;

- (b) in sections 3, 6 to 13 and 17, by inserting, before the words “land surveyor”, wherever they appear, the word “professional”.

(3) The Land Acquisition Act is amended, in section 8(2)(a), by inserting, before the words “land surveyor”, the word “professional”.

(4) The Registration Duty (Site Plan) Regulations 1991 are amended –

(a) in regulation 2 –

- (i) by deleting the definition of “Land Surveyor”;
- (ii) by inserting, in the appropriate alphabetical order, the following new definition, the full stop at the end of the definition of “PIN” being deleted and replaced by a semicolon –

“professional land surveyor” has the same meaning as in the Professional Land Surveyors’ Council Act 2014.

- (b) in regulation 3, by deleting the words “Land Surveyor” wherever they appear and replacing them by the words “professional land surveyor”.
- (5) The Cadastral Survey (Land Surveys) Regulations 2013 are amended –
- (a) in regulation 3, by inserting, after the words “Notices to”, the word “professional”;
  - (b) by inserting, before the words “land surveyor”, wherever they appear, the word “professional”.

## **51. Savings and transitional provisions**

(1) Every land surveyor who was appointed by a commission issued by the President under section 4(1) of the repealed Land Surveyors Act shall, at the commencement of this Act, be deemed to have been appointed by a commission by the President under this Act.

(2) (a) Every land surveyor who was appointed by a commission issued by the President under section 4(1), and who furnished the security under section 2(a)(i), of the repealed Land Surveyors Act shall, at the commencement of this Act, be deemed to be a professional land surveyor under this Act.

(b) The Registrar shall, at the commencement of this Act, enter in the Register, the name, address, qualification and other particulars of every professional land surveyor referred to in paragraph (a).

(3) (a) Notwithstanding section 7(1), the Minister shall, at the commencement of this Act, appoint –

- (i) 4 Government surveyors posted at the Ministry; and



- (ii) 3 land surveyors who are in private practice,

as the initial members of the Council.

- (b) The members appointed under paragraph (a) shall –

- (i) elect from among themselves a Chairperson and a Vice-chairperson;
- (ii) appoint a land surveyor to act as Registrar of the Council for a term not exceeding 6 months; and
- (iii) hold office for a period not exceeding 6 months.

(c) In this subsection, “land surveyor” means a person who is appointed by a commission issued by the President under, and who furnished the security under section 2(a)(i) of, the repealed Land Surveyors Act.

(4) The Registrar shall, within 6 months of the commencement of this Act, transmit to the Minister a list of professional land surveyors.

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

## **52. 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.

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## **FIRST SCHEDULE**

[Section 7(1)(c)]

### **PROCEDURE FOR ELECTION**

#### **1. Calling for nominations and appointment of nomination day**

Within 5 months of the commencement of this Act and, thereafter, not less than one month before the expiry of the term of office of the members specified in section 7(1)(c) or 51(3) (a), as the case may be, the Registrar shall publish, in the *Gazette* and such newspaper as he may determine, a notice –

- (a) inviting the submission of nominations for election as member of the Council; 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 unless, on nomination day –

- (a) he is a professional land surveyor;
- (b) (i) he is not subject to any investigation;
- (ii) no disciplinary proceedings are being held against him under section 27; and
- (iii) no disciplinary measure has been taken against him during the last 5 years preceding the nomination.

#### **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 may determine, 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 land surveyor shall be entitled to vote at an election of the members.

(2) Every professional land surveyor 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, who shall submit to the Minister the results of the election forthwith.

(2) The Minister shall, within 21 days of receipt of the results of the election, cause the composition of the Council to be published in the *Gazette*.

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## **SECOND SCHEDULE**

[Section 19]

Constitution, sections 8, 9 and 10

Building Control Act

Cadastral Survey Act

Central Water Authority Act

Code Civil Mauricien, Livre Premier, articles 112 to 145, 215 to 226, Titres VII to XI, Livre Deuxième, Livre Troisième, Titres I to X, XIII to XV, XVII to XX

Deposits (Supreme Court) Act

Environment Protection Act

Forests and Reserves Act

Ground Water Act

Irrigation Authority Act

Land Acquisition Act

Landlord and Tenant Act

Legal Metrology Act

Local Government Act, Sub-part C of Part V, Sub-parts C, D, E and F of Part VIII and Part X

Minerals Act

Morcellement Act

National Heritage Fund Act

Non-Citizens (Property Restriction) Act

Pas Géométriques Act

Petroleum Act

Professional Land Surveyors' Council Act 2014

Registration Duty Act

Removal of Sand Act

Roads Act, Part III

Sale of Immovable Property Act, Part II

Shooting and Fishing Leases Act

State Lands Act

Succession and Wills Act

Sugar Industry Efficiency Act

Tourism Authority Act

Town and Country Planning Act

Transcription and Mortgage Act

Waqf Act