



Republic of Namibia
Annotated Statutes

Architects' and Quantity Surveyors' Act 13 of 1979

(OG 4029)

brought into force, with the exception of section 13(1)(b), on 1 January 1980
by AG 36/1979 (OG 4057); section 13(1)(b) brought into force
on 2 May 1983 by AG Proc. 10/1983 (OG 4773)

as amended by

Architects' and Quantity Surveyors' Amendment

Act 11 of 1992 (GG 420)

came into force on date of publication: 17 June 1992

ACT

To provide for the establishment of a Namibia Council for Architects and Quantity Surveyors, for the registration of architects, quantity surveyors, architects in training and quantity surveyors in training, and for incidental matters.

[long title amended by Act 11 of 1992]

(English text signed by the Administrator-General on 24 September 1979)

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BE IT ENACTED by the National Assembly of South West Africa, as follows:-

[Act 11 of 1992 makes the following substitutions throughout the Act:

*** "Minister" for "Administrator-General"**

*** "Namibia" for "the territory"**

and directs that the word "Official" be deleted from the expression "Official Gazette" wherever it occurs.]

Definitions

1. In this Act, unless the context indicates otherwise -

“architect” means a person registered as an architect in terms of any provision of section 11;

“architect in training” means a person registered as an architect in training in terms of any provision of section 11;

“council” means the Namibia Council for Architects and Quantity Surveyors referred to in section 2;

[definition of “council” amended by Act 11 of 1992]

“Minister” means the Minister of Works, Transport and Communication;

[definition of “Minister” inserted by Act 11 of 1992]

“prescribed” means prescribed by or under this Act;

“quantity surveyor” means a person registered as a quantity surveyor in terms of any provision of section 11;

“quantity surveyor in training” means a person registered as a quantity surveyor in training in terms of any provision of section 11;

“register” when used as a noun, means any register referred to in section 7(2);

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“registrar” means the person employed as registrar under section 7(1)(a);

“regulation” means a regulation made and in force under this Act;

[definition of “territory” deleted by Act 11 of 1992]

“this Act” includes any regulation, notice, order or rule made or issued under this Act.

The Namibia Council for Architects and Quantity Surveyors

2. The council known as the South West African Council for Architects and Quantity Surveyors shall with effect from the commencement of the Architects' and Quantity Surveyors' Amendment Act, 1992, continue to exist under the name Namibia Council for Architects and Quantity Surveyors, and to be a body corporate.

**[Section 2 is substituted by Act 11 of 1992,
which provides the following transitional provision in section 2(2):**

“Any reference in any law, register, title deed or any other document to the South West African Council for Architects and Quantity Surveyors shall be deemed to be a reference to the Namibia Council for Architects and Quantity Surveyors.”]

Constitution of council

3. (1) The council shall consist of the following members to be appointed by the Minister, namely -

- (a) four persons who shall, subject to the provisions of subsection (3), be nominated by the Namibia Institute of Architects;
- (b) four persons who shall, subject to the provisions of subsection (3), be nominated by the Institute of Namibian Quantity Surveyors;
- (c) two persons selected by the Minister from among persons in full-time employment in the public service in Namibia;
- (d) one person selected by the Minister on the ground that, by virtue of his or her knowledge and experience of public affairs and the economic requirements of Namibia, he or she is particularly suited to judge how the public interest in so far as it is affected by the architects' and quantity surveyors' professions can best be safeguarded or promoted.

**[Subsection (1) is amended by Act 11 of 1992,
which provides the following transitional provision in section 3(2):**

“The amendment of section 3 of the principal Act by subsection (1) of this section shall not have any effect on the constitution of the council, so referred to, as constituted at the commencement of this Act, and any member of the said council shall continue to hold office until expiry of the period for which he or she was appointed or until he or she vacates office.”]

(2) Whenever any nomination in terms of subsection (1)(a) or (b) becomes necessary, the Minister shall, subject to the provisions of subsection (3), call upon or cause to be called upon the body concerned, by notice in writing, to nominate within a period specified in the notice, being not less than sixty days from the date thereof, so many persons as may be required to be nominated by it for appointment to the council.

(3) Whenever any nomination in terms of subsection (1)(a) or (b) becomes necessary and any institute referred to in that subsection has ceased to exist, the Minister may appoint to

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be members of the council in terms of that subsection such architects or quantity surveyors, as the case may be, as he may deem suitable, up to the number required.

(4) If after having been called upon by notice in terms of subsection (2) the body concerned fails to nominate, within the period specified in that notice, so many persons as were in terms of such notice required to be nominated, the Minister may appoint such persons who hold the qualifications necessary for appointment, including any persons who may have been nominated, as he may deem suitable, up to the number required to be members of the council in terms of the subsection concerned.

(5) The name of every person appointed as a member of the council, together with the date from which the appointment takes effect and the period for which such appointment has been made, shall be notified in the *Gazette*.

(6) No decision taken by the council or act performed under the authority of the council, shall be invalid by reason only of a vacancy on the council or of the fact that a person who was not entitled to sit as a member of the council sat as a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the council who were present at the time and entitled to sit as members.

Qualifications of members of council and circumstances in which they shall vacate office

4. (1) No person shall be appointed -
 - (a) as a member of the council in terms of section 3(1)(a),(b) or (c) or (3) unless he is or is deemed to be an architect or a quantity surveyor; or
 - (b) as a member of the council in terms of section (3)(1)(a) or (b) unless he is or is deemed to be a member of the body by which he was nominated.
- (2) A member of the council shall vacate his office -
 - (a) if he signifies in writing his wish to resign;
 - (b) if his estate is sequestrated or he compromises with his creditors;
 - (c) if he is detained as a mentally ill person under the provisions of any law;
 - (d) if he is convicted of an offence and sentenced to a term of imprisonment without the option of a fine;
 - (e) if he is removed from an office of trust on account of improper conduct or if he has been guilty of conduct by reason whereof he is in the opinion of the Minister, after consultation with the council, not a fit person to be a member of the council;
 - (f) if he is disqualified under this Act from carrying on his profession;
 - (g) if he has been absent from three consecutive meetings of the council without its leave;
 - (h) if he was appointed in terms of section 3(1)(a) or (b) and ceases to be a member of the body by which he was nominated;

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- (i) if he was appointed in terms of section 3(1)(a), (b) or (c), (3) or (4) and ceases to be an architect or quantity surveyor, as the case may be;
- (j) if he was appointed in terms of section 3(1)(c) and ceases to be a person contemplated in that section.

Tenure of office of members of council

5. (1) Subject to the provisions of subsection (2), every member of the council (not being a member appointed in terms of section 3(1)(c) or (d), who shall hold office during the Minister's pleasure) shall hold office for a period of two years, but shall on termination of the period for which he was appointed, continue to hold office for a further period not exceeding three months until his successor has been appointed: Provided that when the council is to be constituted for the first time -

- (a) two persons to be nominated for the purpose in terms of section 3(1)(a) and two other persons to be so nominated in terms of section 3(1)(b) shall hold office until the end of the second month of February after the date of appointment;
- (b) two persons to be nominated for the purpose in terms of section 3(1)(a) and two other persons to be so nominated in terms of section 3(1)(b) shall hold office until the end of the third month of February after the date of appointment.

(2) Whenever a member of the council vacates his office before the expiration of the period for which he was appointed, the Minister may, subject to the applicable provisions of section 3, appoint a person to fill the vacancy for the unexpired portion of the period for which such member was appointed.

(3) Any person whose period of office as member of the council has expired by effluxion of time shall be eligible for reappointment.

President and vice-president of council

6. (1) The members of the council shall out of their number elect a president and a vice-president of the council, and the president and the vice-president shall hold office for such period, being not less than twelve months, as the council may from time to time determine.

(2) If the president or the vice-president of the council vacates his office before the expiration of the period for which he was appointed as a member of the council, another member of the council shall, subject to the provisions of subsection (1), be elected as president or vice-president of the council, as the case may be.

(3) If for any reason the president is not able to act, the vice-president shall act in his stead.

(4) If the president and the vice-president are absent from any meeting of the council or not able to preside, the members present shall elect one of their number to preside at that meeting and the person so elected to preside shall during that meeting and until the president or vice-president resumes duty, perform all the duties of the president.

(5) A member of the council who is not an architect or a quantity surveyor shall not be elected president or vice-president of the council or preside at any meeting thereof.

General powers of council and powers of the Minister in regard to certain matters in respect of which the council has made recommendations

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7. (1) The council shall have power -
- (a) to employ a registrar and other officials and to determine their duties and responsibilities;
 - (b) subject to the provisions of this Act, to determine the procedure at meetings of the council or any committee of the council and the manner in which minutes of the meetings shall be kept;
 - (c) subject to the provisions of section 10(2), to consider and give its final decisions on recommendations of a committee of the council;
 - (d) to acquire or hire such movable or immovable property as it may consider necessary for the effective performance of its functions;
 - (e) to enter into contracts and to decide the manner in which contracts shall be entered into on behalf of the council;
 - (f) to collect the funds of the council and, subject to the provisions of paragraph (d), to invest and deal with such funds by placing the funds or any portion thereof on fixed deposit or in a savings account with any banking institution or building society registered in terms of any law, or the General Post Office, or in stocks issued by any government or any public utility corporation lawfully established;
 - (g) with the approval of the Minister, to determine the remuneration and allowances payable from the funds of the council to members of the council or of a committee of the council;
 - (h) to prescribe the manner in which an applicant shall apply for registration as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training, to prescribe the fees which shall be payable to the council in respect of any such registration and the annual fees which shall be payable to the council by any person as long as he remains registered as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training, and to determine what portion of such annual fees shall be payable in respect of any part of a year and the date on which such annual fees or portion thereof shall become due and payable: Provided that, having regard to the circumstances of the case, the council may grant a remission of the annual fee or any portion thereof payable by any particular person;
 - (i) to recommend to the Minister or recognize any examination contemplated in section 11(2)(b), to determine the fees payable to the council in respect of any such examination, and to enter into an agreement with any body of persons, within or outside Namibia, with regard to the recognition of any examination or qualification for the purposes of this Act;
 - (j) subject to the provisions of this Act, to consider and decide upon any application for registration as an architect or as a quantity surveyor or as an architect in training or as a quantity surveyor in training;
 - (k) to decide upon the form of the registers and certificates to be kept, maintained or issued under this Act, the reviewing thereof and the manner in which alterations thereto may be effected;

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- (l) to recommend to the Minister the minimum fees which shall be chargeable by any architect or quantity surveyor for his professional services;
- (m) to recommend to the Minister the kinds of work in connection with projects, undertakings or services of an architectural or quantity surveying nature which shall be reserved for architects or quantity surveyors, as the case may be;
- (n) subject to the provisions of this Act, to determine the method of enquiry into allegations of improper conduct of which any architect or quantity surveyor or architect in training or quantity surveyor in training is alleged to have been guilty;
- (o) to take any steps which it may consider expedient for the protection of the public in dealings with architects or quantity surveyors, for the maintenance of the integrity, the enhancement of the status and the improvement of the standards of professional qualifications of architects or quantity surveyors;

[The word "professional" is misspelt in the *Official Gazette*, as reproduced above.]

- (p) to encourage research into matters relating to the architects' or quantity surveyors' profession and to give advice or render financial or other assistance to any educational institution or any architects' or quantity surveyors' institute or any examining body in regard to educational facilities for and the training and education of prospective architects or quantity surveyors;
- (q) to finance, print, circulate and administer the publication of, and generally to take any steps necessary to publish, any publication relating to the architects' or quantity surveyors' profession and cognate matters;
- (r) to advise the Minister on all matters relating to the architects' or quantity surveyors' profession and cognate matters;
- (s) to provide that architects shall not participate in any architectural competition of which the conditions have not been approved by the council, to prescribe the conditions subject to which any such competition may be approved, to appoint persons to undertake any functions which the council may consider necessary, if requested thereto, and in any other manner to assist in the organization of any such competition;
- (t) to take such other action and do such other things as may be required for the proper performance of its functions and duties in terms of this Act.

(2) Subject to the provisions of this Act, the council shall keep and maintain a register or registers of architects, quantity surveyors, architects in training and quantity surveyors in training and any such register shall at all reasonable times be open to inspection by any member of the public upon payment of such fee as the council may prescribe.

(3) The Minister may, after consideration and approval of any recommendation made by the council under subsection (1) -

- (a) prescribe the minimum fees which shall be chargeable by any architect or quantity surveyor for his professional services, and confer upon the council the power to allow an architect or a quantity surveyor to charge a lesser fee for any particular service;

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- (b) subject to the provisions of subsection (4), prescribe the kinds of work in connection with projects, undertakings or services of an architectural or quantity surveying nature which shall be reserved for architects or quantity surveyors, as the case may be.

(4) Except in respect of such kinds of work as may have been reserved for architects or quantity surveyors, as the case may be, under the provisions of any law repealed by this Act, the Minister shall, at least four weeks prior to exercising any powers under subsection (3)(b), by notice in the *Gazette* invite objections to or representations concerning any proposed reservation of any kind of work for architects or quantity surveyors, and may thereupon, having regard to any objections or representations received, and without any further notice, exercise the said powers in respect of the kinds of work concerned.

(5) Provisions made by virtue of subsection (3)(b) may provide for the exclusion therefrom of work done under specified circumstances or for specified purposes or by or for specified persons or classes of persons or within or outside specified areas or classes of areas.

(6) Any fees prescribed by the council by virtue of subsections (1)(h) and (2) and any provision made or fees prescribed by virtue of subsection (3), shall be made known by notice in the *Gazette*.

Funds of council and the keeping and auditing of accounts

8. (1) The funds of the council shall consist of the fees received by it in pursuance of any provision made under section 7, and such other moneys as may in terms of this Act from time to time become payable to the council.

(2) The council shall cause full and correct account to be kept of all moneys received or expended by it.

(3) The council shall cause to be prepared in each year a statement of its income and expenditure during its last preceding financial year and a balance sheet showing its financial position at the end of that financial year and shall, after such statement and balance sheet have been audited by an auditor appointed by the council, forward copies thereof to every member of the council and cause a copy thereof to be open for inspection at its office by any architect or quantity surveyor or architect in training or quantity surveyor in training.

Reports to the Minister

9. (1) The council shall in each year, within six months after the close of its financial year, submit to the Minister a report in regard to its activities during that financial year, together with a copy of the audited statement of income and expenditure and the balance sheet referred to in section 8(3) in respect of that financial year.

(2) The president of the council shall from time to time submit to the Minister reports in regard to matters relating to the activities of the council which in the opinion of the council should be brought to the Minister's notice.

(3) The council shall at the request of the Minister furnish him with advice on matters in connection with the architects' or quantity surveyors' profession or cognate matters, and shall communicate to the Minister information acquired by it in the course of its duties, on matters regarded by it as being of public import.

Committees of council

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10. (1) (a) The council may establish committees to assist it in the performance of its functions and duties and may appoint such of its members and such architects or quantity surveyors who are not members of the council as it may deem fit to be members of any such committee.

(b) One of the members of a committee shall be designated by the council as chairman of the committee.

(2) The council may assign to a committee so established such of its powers as it may deem fit, but shall not be divested of any power which it may have assigned to a committee, and may amend or withdraw any decision of any such committee: Provided that if the council has assigned to a committee the power to determine whether or not any person shall be registered as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training, or the power to cancel the registration of any person as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training, or the power to enquire into any case of alleged improper conduct and to impose a punishment in respect thereof in accordance with the provisions of section 15, the council shall not amend or withdraw any decision arrived at or anything done by such committee under the power so assigned except that it may mitigate any punishment so imposed: Provided further that any member of a committee to which the power has been assigned to enquire into any case of alleged improper conduct and to impose a punishment in respect thereof, shall, notwithstanding the expiration of his period of office as member of the council, continue to serve on such committee until the conclusion of the enquiry.

(3) Any reference in this Act to the council or to the president of the council, in relation to the exercise of any power which the council has assigned to a committee, shall be construed as including a reference to that committee or to the chairman of that committee, as the case may be.

(4) The provisions of section 3(6) shall apply *mutatis mutandis* in respect of a committee of the council.

Registration of architects, quantity surveyors, architects in training and quantity surveyors in training

11. (1) Any person who desires to be registered as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training shall lodge with the council, in the manner prescribed by it, an application in writing for such registration, and such application shall be accompanied by the prescribed registration fee and such information as may be required by the council.

(2) If after consideration of any such application the council is satisfied that the applicant -

(a) is not less than twenty-one years of age; and

(b) has passed the examination prescribed by regulation or any examination recognized by the council for the purpose of this paragraph; and

(c) has, for a period determined from time to time by the council and commencing before or after the date of passing of any examination referred to in paragraph (b), performed architectural or quantity surveying work which in the opinion of the council is of sufficient variety and of a satisfactory nature and standard, and has performed such work -

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- (i) in Namibia, under the direction and control of an architect or a quantity surveyor;
- (ii) elsewhere than in Namibia, under the direction and control of any other person who has passed an examination recognized by the council for the purposes of this subparagraph, if such person is engaged primarily in the performance of the kinds of work prescribed under section 7(3)(b); and
- (d) is a member of the Namibia Institute of Architects or the Institute of Namibian Quantity Surveyors, as the case may be, of such a class of members as the council may approve,

[paragraph (d) amended by Act 11 of 1992]

the council shall, subject to the provisions of subsection (7), register the applicant as an architect or a quantity surveyor, as the case may be, and issue to him a certificate of registration.

(3) The Minister may grant an applicant exemption from the requirement mentioned in subsection (2)(d), if he is satisfied that membership of the institute concerned is without good cause being withheld from such applicant.

- (4) (a) If after consideration of any application under subsection (1) the council is satisfied that the applicant complies with the requirements mentioned in subsection (2)(a) and (b) and, unless the applicant has been granted exemption by the Minister under subsection (3), in subsection (2)(d), but not with the requirement mentioned in subsection (2)(c), the council shall register the applicant as an architect in training or a quantity surveyor in training, as the case may be, and issue to him a certificate of the registration to that effect.
- (b) Whenever any person who is registered as an architect in training or a quantity surveyor in training in terms of paragraph (a), has complied with the requirement mentioned in subsection (2)(c), the council shall, subject to the provisions of subsection (7), cancel the registration of such person and on application register him in terms of subsection (2).

(5) Any person who immediately prior to the commencement of this Act was registered as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training in terms of the Architects' Act 1970 (Act 35 of 1970) or the Quantity Surveyors' Act 1970 (Act 36 of 1970) of the Republic of South Africa, shall, in the case of an architect or a quantity surveyor, be deemed to comply with all the requirements for registration mentioned in subsection (2) and, in the case of an architect in training or a quantity surveyor in training, be deemed to comply with all the said requirements other than the requirement mentioned in subsection (2)(c), and the council shall, upon application to it, but subject to the provisions of subsection (6), register the applicant as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training, as the case may be, and issue to him a certificate of registration to that effect.

(6) No person shall be registered by virtue of the provisions of subsection (5), unless he applied to the council to be so registered within six months after the date of commencement of this Act, or within such further period as the council may in any particular case allow.

(7) The council may refuse to register any person as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training in terms of this section -

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- (a) if he has at any time been removed from an office of trust on account of improper conduct; or
- (b) if he has at any time been convicted of extortion, bribery, theft, fraud, forgery or uttering a forged document or perjury and sentenced in respect thereof to imprisonment without the option of a fine or to a fine exceeding two hundred rand; or
- (c) if he is detained as a mentally ill person under the provisions of any law; or
- (d) if he is disqualified from registration in terms of any punishment imposed under this Act; or
- (e) if his estate is sequestrated or he compromises with his creditors or has been guilty of conduct by reason whereof he is in the opinion of the council not a fit person to be registered.

(8) The council may cancel the registration as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training of any person who subsequent to his registration becomes subject to any of the disqualifications mentioned in subsection (7)(a), (b) (c) or (d) or whose estate is sequestrated or who enters into an arrangement with his creditors or who had within a period of three years prior to his application for registration been guilty of conduct by reason whereof he is in the opinion of the council not a fit person to be registered or whose registration was made in error or on information subsequently proved to be false.

[The word "registration" in the phrase "application for registration" is misspelt in the *Official Gazette*, as reproduced above.]

(9) The registration of any person as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training, as the case may be, shall lapse if such person -

- (a) fails to pay any annual fee or any portion thereof prescribed under section 7(1)(h) and payable by him, within sixty days after such fee or portion thereof becomes due or within such further period as the council may in any particular case allow, whether before or after the expiration of the said sixty days; or
- (b) being a person who has not been granted exemption by the Minister under subsection (3), ceases to comply with the requirement mentioned in subsection (2)(d); or
- (c) being a person registered in terms of subsection (4)(a), has for ninety consecutive days or longer failed to perform any work of a kind mentioned in subsection (2)(c) under the direction and control of an architect or a quantity surveyor, as the case may be: Provided that the council may condone any failure contemplated in this paragraph if it is satisfied that such failure was beyond the control of the person concerned.

(10) The council shall at the written request of any architect or quantity surveyor or architect in training or quantity surveyor in training remove his name from the register, but the removal shall not affect any liability incurred by such architect or quantity surveyor or architect in training or quantity surveyor in training prior to the date of such request.

(11) Subject to the provisions of subsection (7), the council shall on application to it register as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training any person who was previously registered as an architect or a quantity surveyor in

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terms of subsection (2) or as an architect in training or a quantity surveyor in training in terms of subsection (4), as the case may be, if he has paid the prescribed registration fee and any arrear annual fee or portion thereof prescribed under section (7)(1)(h) together with any expenses incurred by the council in connection with the recovery of any arrear fees.

(12) A person who is registered as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training may describe himself as an architect or a quantity surveyor or as an architect in training or a quantity surveyor in training, as the case may be.

Circumstances under which certificates of registration shall be returned to registrar

12. (1) Any person whose registration as an architect or a quantity surveyor or an architect in training or a quantity surveyor in training, as the case may be, has been cancelled under section 11(8) or has lapsed in terms of section 11(9) or whose name has been removed from the register in terms of section 11(10), shall return to the registrar his certificate of registration within thirty days from the date upon which he is directed by the registrar by notice in writing transmitted by post to do so.

(2) Any person who fails to comply with any direction given under subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand.

Prohibition against practising as architect or quantity surveyor by unregistered person

13. (1) Subject to any exemption granted under this Act -

(a) any person other than an architect or a quantity surveyor who -

(i) for gain performs any kind of work reserved for architects or quantity surveyors under section 7(3)(b); or

(ii) pretends to be or by any means whatsoever holds himself out or allows himself to be held out as an architect or a quantity surveyor or uses the name of architect or quantity surveyor or any name, title, description or symbol indicating or calculated to lead persons to infer that he is registered as an architect or a quantity surveyor in terms of this Act; or

(b) any person other than a natural person which -

(i) for gain performs any kind of work reserved for architects or quantity surveyors under section 7(3)(b) or in any way makes it known that it is prepared to perform any such work; or

(ii) uses any name, title, description or symbol indicating or calculated to lead persons to infer that it performs any kind of work reserved for architects or quantity surveyors,

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand.

(2) Subsection (1)(b) shall come into operation on a date to be fixed by the Minister by proclamation in the *Gazette*, being a date not earlier than twelve months after the commencement of this Act.

Improper conduct

14. (1) An architect or a quantity surveyor shall be guilty of improper conduct if he -

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- (a) except with the consent of the council or except in terms of any exemption granted under this Act entrusts to any person other than an architect or a quantity surveyor work of a kind reserved under section 7(3)(b) for architects or quantity surveyors, as the case may be; or
- (b) performs work of a kind reserved under section 7(3)(b), in connection with any matter which is the subject of dispute or litigation, on condition that payment for such work will be made only if such dispute or litigation ends favourably for the party for whom such work is performed; or
- (c) accepts remuneration for services rendered from any person other than his client or employer; or
- (d) performs work of a kind reserved under section 7(3)(b) during any period in respect of which he has been suspended under this Act; or
- (e) commits an offence in carrying on his profession; or
- (f) contravenes or fails to comply with any rule prescribed under section 18(d).

(2) The acquittal or the conviction of an architect or a quantity surveyor or an architect in training or a quantity surveyor in training by a court of law upon a criminal charge shall not be a bar to proceedings against him under this Act on a charge of improper conduct, even if the facts set forth in the charge of improper conduct would, if proved, constitute the offence set forth in the criminal charge on which he was so acquitted or convicted or any other offence of which he might have been convicted at his trial on the said criminal charge.

(3) If the improper conduct with which any architect or quantity surveyor or architect in training or quantity surveyor in training is charged amounts to an offence of which he has been convicted by a court of law, a certified copy of the record of his trial and conviction by that court shall, upon the identification of such architect or quantity surveyor or architect in training or quantity surveyor in training as the person referred to in the record, be sufficient proof of the commission by him of such offence, unless the conviction has been set aside by a superior court: Provided that it shall be competent for the person charged to adduce evidence that he was in fact wrongly convicted.

Disciplinary powers of council

15. (1) The council shall have power to enquire into cases of improper conduct of which a person who is registered in terms of this Act is alleged to have been guilty while so registered and, if such person is found guilty at the enquiry, to impose upon him any punishment prescribed under section 18(1)(f) and to recover from him any costs incurred by the council in connection with the enquiry: Provided that in the case of alleged improper conduct which forms or which the council has reason to believe is likely to form the subject of criminal or civil proceedings in a court of law, the council may postpone the enquiry until such proceedings have been determined: Provided further that nothing in this section contained shall affect the right of any institute referred to in section 3(1)(a) or (b) from taking disciplinary or other action against any of its members in accordance with its constitution and rules.

[The words "referred" and "constitution" are misspelt in the *Official Gazette*, as reproduced above.]

(2) Whenever any punishment imposed under subsection (1) consists of, or includes, any fine, the amount thereof shall be recoverable by the council from the person concerned, and any amount so recovered shall be paid into the funds of the council.

[The word “consists” is misspelt in the *Official Gazette*, as reproduced above.]

Enquiry by council

16. (1) For the purpose of any enquiry under section 15, the council may -
- (a) summon any person who in its opinion may be able to give material information concerning the subject of the enquiry or who is believed to have in his possession or custody or under his control any book, document or thing which has any bearing on the subject of the enquiry, to appear before it at a time and place specified in the summons, to be interrogated or to produce that book, document or thing, and may retain for examination any book, document or thing so produced;
 - (b) call and by its president administer an oath to, or accept an affirmation from, any person present at the enquiry who was or could have been summoned under paragraph (a) and interrogate him and require him to produce any book, document or thing in his possession or custody or under his control;
 - (c) appoint any person to advise the council at such enquiry on matters pertaining to law, procedure or evidence.

(2) A summons for the attendance before the council of any person or for the production of any book, document or thing shall be in the form prescribed by the council, shall be signed by the president of the council or a person authorized thereto by it, and shall be served in such manner as the council may determine.

(3) If any person who has been duly summoned under this section fails, without sufficient cause, to attend at the time and place specified in the summons or to remain in attendance until excused from further attendance by the president of the council, or if any person called under subsection (1)(b) refuses to be sworn or to affirm as a witness or fails without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions lawfully put to him concerning the subject of the enquiry, or to produce any book, document or thing in his possession or custody or under his control which he has been required to produce, he shall be guilty of an offence: Provided that in connection with the interrogation of any such person or the production of any such book, document or thing, the law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply.

(4) Any witness who, having been duly sworn or having made an affirmation, gives a false answer to any question lawfully put to him or makes a false statement on any matter, knowing such answer or statement to be false, shall be guilty of an offence.

(5) Any person who wilfully hinders the president or any member or official of the council in the exercise of any power conferred upon him by or under this section, shall be guilty of an offence.

(6) The person whose conduct is being enquired into by the council shall be informed of the nature of the complaint made against him and shall be entitled to appear by himself or to be represented by some other person duly authorized in writing on his behalf, and to produce evidence, call and examine witnesses on his behalf and cross-examine other witnesses.

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(7) Any person convicted of an offence under this section shall be liable to a fine not exceeding two hundred rand.

Suspension from practising of architects or quantity surveyors who have become of unsound mind

17. (1) Whenever it appears to the council from information on oath that an architect or a quantity surveyor has become of unsound mind to such an extent that it would be contrary to the public interest to allow him to continue in practice, the council may, if it deems fit, hold an enquiry *mutatis mutandis* in accordance with the provisions of section 16 in respect of such architect or quantity surveyor.

(2) If the council finds that such architect or quantity surveyor has so become of unsound mind, it may order his suspension for a specified period from practising as an architect or a quantity surveyor, as the case may be.

(3) The council may extend for any period determined by it the period of operation of, or withdraw, any order made under this section.

Regulations

18. The Minister may, after consideration and approval of any relevant recommendations made by the council, make regulations, not inconsistent with this Act -

- (a) as to any matters which by this Act are required or permitted to be prescribed by regulation;
- (b) as to the calling of and procedure and quorum at meetings of the council or of a committee of the council;
- (c) as to the keeping, custody and publication of a register of architects and architects in training or quantity surveyors and quantity surveyors in training;
- (d) prescribing rules with which architects or quantity surveyors shall comply in carrying on their profession;
- (e) prescribing conduct (in addition to conduct referred to in section 14) on the part of an architect or an architect in training or a quantity surveyor or a quantity surveyor in training, as the case may be, which shall constitute improper conduct;
- (f) prescribing the method of enquiry into allegations of improper conduct and the punishments which may be imposed in respect thereof, including fines, removal from the register, permanent disqualification from registration and disqualification from registration or suspension from practice for such period as the council may determine or conferring on the council the power of mitigation of any punishment so imposed and prescribing the manner in which such mitigation shall take place;
- (g) generally, as to all matters which he may consider it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

Procedure and evidence

19. (1) The register shall be *prima facie* evidence of all matters directed or authorized by this Act to be noted therein.

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(2) A certificate purporting to be signed by the registrar to the effect that an entry has or has not been made in the register or that any other thing authorized by this Act to be done, has or has not been done, shall be *prima facie* evidence of the matters specified in that certificate.

(3) A copy of an entry in the register or of a document in the custody of the registrar, or an extract from the register or from any such document purporting to be certified by the registrar, shall be admitted in evidence in all courts without further proof or production of the original.

Rectification of errors

20. Whenever anything which according to the provisions of this Act is required to be done or performed on or before a specified day or at a specified time or during a specified period, has not been so done or performed, the Minister may, if he is satisfied that such failure was due to error or oversight, and that it is in the interests of the architects' or quantity surveyors' profession to do so, authorize such thing to be done or performed on or before some other day or at some other time or during some other period, as he may direct, and anything so done or performed shall be of full force and effect and shall be deemed to have been lawfully done or performed in accordance with the provisions of this Act.

Liability of council

21. No legal proceedings, whether civil or criminal, shall lie against the council or any member or official thereof in respect of any act or duty performed in good faith in accordance with the provisions of section 15, 16 or 17.

Delegation of powers

22. (1) The Minister may by writing under his hand delegate to any senior officer in the public service any or all of the powers conferred upon him by this Act other than the power to make regulations and the powers conferred upon him by section 7(3).

(2) Any person to whom any power has been delegated under subsection (1), shall exercise that power subject to the directions of the Minister.

(3) The Minister may at any time revoke in writing any such delegation, and the delegation of any power shall not prevent the exercise of that power by the Minister himself.

Exemption of persons from operation of provisions of Act

23. (1) The Minister may, after consultation with the council, by notice in the *Gazette* and subject to such conditions as he may determine, exempt any person (including any person other than a natural person) or class of persons specified in the notice, either generally or in such circumstances as may be specified in the notice and either indefinitely or for such period as may be so specified, from the operation of any or all of the provisions of this Act.

(2) The Minister may at any time by notice in the *Gazette* amend or repeal any notice issued in terms of this section.

Repeal of laws and savings

24. (1) The Architects' Act 1970 (Act 35 of 1970), the Architects' Amendment Act 1975 (Act 18 of 1975) and the Quantity Surveyors' Act, 1970 (Act 36 of 1970) are hereby repealed.

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(2) Any regulation made or any fees (including minimum fees) prescribed or any kind of work prescribed as reserved for architects or quantity surveyors under any provision of any law repealed by this Act, which could be made or prescribed under a corresponding provision of this Act, shall be deemed to have been made or prescribed under such corresponding provision, and any reference in any such regulation or in respect of any fees or kind of work so prescribed -

- (a) to any council as defined in any such law, shall be construed as a reference to the council;
- (b) to any institute, shall be construed as a reference to the Institute of South West African Architects or the Institute of South West African Quantity Surveyors, as the case may be;
- (c) to any law repealed by this Act, shall construed as a reference to this Act;
- (d) to the Minister of Public Works or the Minister, shall be construed as a reference to the Minister;

[The original paragraph (d) stated: "any reference to the Minister of Public Works or the Minister, shall be construed as a reference to the Administrator-General"; the global substitution of "Minister" for "Administrator-General" by Act 11 of 1992 produces a result that is partially redundant.]

- (e) to any provision of any law repealed by this Act, shall be construed as reference to the corresponding provision of this Act;
- (f) to any register, shall be construed as a reference to the corresponding register referred to in this Act;
- (g) to a registrar, shall be construed as a reference to the registrar;
- (h) to the Republic, shall be construed as a reference to Namibia.

Continued existence of Institute of South West African Architects and Institute of South West African Quantity Surveyors

25. (1) The Institute of South West African Architects and the Institute of South West African Quantity Surveyors shall, with effect from the commencement of the Architects' and Quantity Surveyors' Amendment Act, 1992, continue to exist as separate corporate bodies under the names of the Namibia Institute of Architects and the Institute of Namibian Quantity Surveyors, respectively, capable of suing and being sued in their corporate names and of performing all such acts as are necessary for or incidental to the carrying out of their objects and the performance of their functions and duties in terms of their constitutions.

(2) Any institute continuing to exist by virtue of the provisions of subsection (1) may, notwithstanding anything to the contrary contained in the constitution of such institute or in any law, adopt such new constitution as it may deem fit in view of the promulgation of the Architects' and Quantity Surveyors' Amendment Act, 1992.

(3) Any person who immediately prior to the commencement of the Architects' and Quantity Surveyors' Amendment Act, 1992, was a member of the Institute of South West African Architects or of the Institute of South West African Quantity Surveyors, shall, as from the commencement of the said, Architects' and Quantity Surveyors' Amendment Act, 1992, be deemed to be a member of the Namibia Institute of Architects or the Institute of Namibian

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Quantity Surveyors, as the case may be, until such time as such person may cease to be a member in terms of the constitution concerned.

**[Section 25 is substituted by Act 11 of 1992,
which provides the following transitional provision in section 5(2):
“Any reference in any law, register or title deed or any other document to the Institute
of South West African Architects or the Institute of South West African Quantity Surveyors
shall be deemed to be a reference to the Namibia Institute of Architects or the
Institute of Namibian Quantity Surveyors, as the case may be.”]**

Short title and commencement

26. This Act shall be called the Architects' and Quantity Surveyors' Act, 1979, and shall, subject to the provisions of section 13(2), come into operation upon a date to be fixed by the Minister by proclamation in the *Gazette*.

[Act 11 of 1992 substituted “Minister” for “Administrator-General” throughout the Act, but the date referred to in this section was already fixed by the Administrator-General prior to the substitution.]